

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26118 of 2024

Arising Out of PS. Case No.-38 Year-2024 Thana- Excise P.S. District- Samastipur

Shashi Kumar @ Shashi Ray @ Shashi Kumar Ray Son of Ganesh Ray R/o
Village- Pokhraira, P.S.- Samastipur Muffasil, District- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Surya Roy
For the Opposite Party/s : Mr.Sanjay Kumar

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 2 05-04-2024 1. Heard learned counsel for the petitioner and
learned APP for the State.
2. The petitioner seeks bail in anticipation of his
arrest in a case registered for the offences punishable under
Section 30(a) of the Excise Act.
3. The learned counsel for the petitioner submits that
the petitioner has antecedent of three cases and the allegation is
of recovery of 127.880 litres of liquor from the hut of the
petitioner.
4. The learned counsel for the petitioner submits that
petitioner was not arrested from the spot, as such, nothing was
recovered from his conscious possession and the alleged
recovery is from a house and not the hut. It is next submitted
that even the house, which is a joint family property and thus, it



cannot be alleged with certainty that it was the petitioner, who had kept the liquor in the house or the liquor kept in the house was within his knowledge as after Amendment in the Excise Act, 2018, the concept of deemed possession and presumed offender has been done away with and he came to be implicated at the instance of local villagers, but then, if local villager was aware of the involvement of the petitioner in the occurrence, then why he did not inform the police prior to institution of the instant F.I.R., which cast an aspersion on the case of the prosecution. It is also submitted that police in mechanical manner implicates either at the instance Chaukidar or local villagers.

5. Learned A.P.P. opposes the bail application.

6. Considering the submissions made by the learned counsel for the petitioner, the petitioner, above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs. 15,000/- (Rupees Fifteen Thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge Excise-2, Samastipur in connection with Excise P. S. Case No.38 of 2024, subject to the conditions laid down under Section 438(2) of the



Cr.P.C.

7. The application stands allowed.

8. It is made clear that the learned trial Court before accepting the bail bonds of the petitioner shall verify the criminal antecedent of the petitioner and in the event, if it is found that petitioner has antecedent of more than three cases, in that event, the present anticipatory bail application shall not be given effect to.

(Satyavrat Verma, J)

vikash/-

U		T	
---	--	---	--

