

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26815 of 2024

Arising Out of PS. Case No.-7 Year-2024 Thana- BAISI District- Purnia

Kanhaiya Kumar Son of Murarai Malakar Resident of Prabhat Colony, Bhoth
Nath Mandir, Dist.- Purnia, Bihar- 854301

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Jai Vardhan Narayan, Advocate
For the Opposite Party/s : Mr. Pradeep Narain Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 2 09-04-2024 1. Heard learned counsel for the petitioner and learned
A.P.P. for the State.
2. The petitioner apprehends his arrest in a case registered
for the offences punishable under Sections 272 and 273 of the Indian
Penal Code and Section 30(a) of the Bihar Prohibition and Excise
Act, 2016.
3. Learned counsel for the petitioner submits that
petitioner is a person with clean antecedent.
4. Allegation is of recovery of 272.76 litres of liquor from
a car.
5. Learned counsel for the petitioner submits that
petitioner was not arrested from the spot, as such, nothing was
recovered from his conscious possession and is not the owner of the
car. It is further submitted that petitioner came to be implicated based
on the fact that his mobile was found in the vehicle. It is thus
submitted that merely because mobile of the petitioner was found in



the vehicle that in itself does not make out a prima facie case against the petitioner when in terms of the amendment in the Excise Act in the year 2018, the concept of deemed possession and presumed offender has been done away with.

6. Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner.

7. 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 from today, be released on anticipatory bail on furnishing bail bonds of Rs.5,000/- (Rupees Five Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Baisi P.S. Case No. 07 of 2024, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

8. However, the learned trial court, before accepting the bail bonds of the petitioner, shall verify the criminal antecedent of the petitioner and if it is found that petitioner has antecedent of even one case in that event the present anticipatory bail order shall not be given effect to.

(Satyavrat Verma, J)

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