

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26805 of 2024

Arising Out of PS. Case No.-162 Year-2023 Thana- KUNDWACHAINPUR District- East
Champaran

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Suresh Yadav @ Suresh Ray @ Shuresh Yadav S/O Late Rita Ray, R/O Vill. -
Basantpur, P.S - Kundwa Chainpur, Distt. - East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abhishek Kumar, Advocate
For the Opposite Party/s : Mr. Md. Mushtaque Alam, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 10-04-2024 Heard Mr. Abhishek Kumar, the learned counsel

for the petitioner and Mr. Md. Mushtaque Alam, the learned

Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in

connection with Kundwa Chainpur PS Case No. 162 of 2023,

FIR dated 09.10.2023, registered for the offences punishable

under Sections 147, 149, 341, 323, 353 and 504 of the Indian

Penal Code.

3. According to prosecution case, during the course of

vehicle checking, the informant along with other police

personnel, apprehended two persons who were coming from

Nepal side, whom after being checked from Breath Analyzer

Machine were found to be in drunken condition. It is further

alleged that the apprehended persons called twenty to twenty-five unknown persons through mobile, who assaulted the informant and other police personnel and rescued both the apprehended persons. It is further alleged that one Vivo mobile was recovered from the apprehended persons and seized.

4. Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case merely on the basis of suspicion. He further submits that upon perusal of the FIR, it appears that there is no specific allegation of any assault or overt act attributed against the petitioner. He further submits that the allegation against the petitioner is that when he was apprehended by the police, he refused to be checked by the Breath Analyzer Machine and the same set of allegation is also against other co-accused person namely, Suraj Kumar, who has been granted the privilege of anticipatory bail by this Court vide order dated 07.02.2024 passed in Cr. Misc. No. 3952 of 2024.

5. The learned Additional Public Prosecutor for the State on the other hand has vehemently opposed the prayer for bail of the petitioner.

6. Considering the aforesaid facts and circumstances and the fact that the petitioner has clean antecedent and

similarly situated co-accused person has been granted the privilege of anticipatory bail, let the petitioner, above-named, in the event of his arrest or surrender before the trial Court, within a period of four weeks from the date of receipt of the order, be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate-V, Sikarahan at Dhaka, East Champaran, Motihari, where the case is pending in connection with **Kundwa Chainpur PS Case No. 162 of 2023**, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. and also the following conditions:

(i). Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the trial Court and shall remain physically present as directed by the trial Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the trial Court.

(ii). If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(iii). And further condition that the trial Court shall

verify the criminal antecedent of the petitioner and in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the trial Court shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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