

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32023 of 2024

Arising Out of PS. Case No.-26 Year-2024 Thana- Excise P.S. District- Purnia

Pintu Sah @ Anand Kumar Son Of Late Surendra Sah Resident Of Amari
Kukran West Ward No.5, P.S. - Dhamdaha, District - Purnea

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Adv Ms. Diksha Kumari, Adv Mr.Kumar Rajdeep, Adv
For the Opposite Party/s :		Mr.Rajiv Nayan

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 3 11-07-2024 1. Heard learned senior counsel for the petitioner, Mr. N.K. Agrawal and learned A.P.P. for the State.
2. The petitioner apprehends his arrest in a case registered for the offences punishable under Section 30(a) of the Bihar Excise Act.
3. Learned senior counsel for the petitioner submits that the petitioner is a person with clean antecedent and allegation is of recovery of 255 litres of cough syrup containing codeine from a land behind the old house of the petitioner which was fenced by tin.
4. Learned senior counsel for the petitioner submits that the petitioner was not arrested from the spot as such nothing was recovered from his conscious possession and even alleged



recovery is from a place which does not belong to the petitioner. It is next submitted that from perusal of allegation as alleged in the FIR, it would manifest that though the informant alleges that the aforesaid codeine was recovered from a land which was fenced by tin but then the details of the land is not recorded in the FIR. It is further submitted that a specific pleading has been made in the anticipatory bail application that the place of resident of the petitioner is 700 meters away from the place of seizure, which is evident from the map which shows the distance of the house of the petitioner from the place of occurrence (Annexure-2).

5. It is next submitted by learned senior counsel for the petitioner that after the amendment in the Excise Act in the year 2018, the concept of deemed possession and presumed offender has been done away with as such in absence of description of the land in the FIR and the the fact that petitioner is not the owner of the land from where the alleged codeine was seized amply demonstrates that *prima facie* no offence under the Excise Act is made out. It is also submitted that petitioner will not abscond rather will cooperate in the investigation.

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 trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 25,000/- (Rupees Twenty-Five Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Excise P.S. Case No. 26 of 2024 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

8. One of the bailors of the petitioner shall be his wife, Gudadi Devi.

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

10. However, in the event, if the Investigating Officer of the case files an application before the learned trial court bringing to its notice that the petitioner, despite giving assurance to this Court, is not cooperating in the investigation or is not



presenting himself as and when required, in that event, the learned trial court shall be at liberty to forthwith cancel the bail bonds of the petitioner.

11. Let a copy of this order be sent to the concerned police station through the learned trial court.

(Satyavrat Verma, J)

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