

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32404 of 2024

Arising Out of PS. Case No.-71 Year-2024 Thana- BARGAINIA District- Sitamarhi

Rupesh Kumar @ Rupesh Yadav, aged about 24 years, Gender-Male, son of Gajendra Ray, R/O-Vill- Bhakurahar, Ward No 18, P.S- Bairgania, Dist-Sitamarhi- 843313

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Surendra Kishore Thakur, Advocatte
For the Opposite Party : Mr. Jharkhandi Upadhyay, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 22-05-2024 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Bairgania P.S. Case No. 71 of 2024 dated 15.03.2024 registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2022.

3. As per the prosecution case, total 286.8 litres of wine is said to have been recovered from two motorcycles on which two persons each were riding.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has been falsely implicated in this case. It is further submitted that no incriminating article has



been recovered from possession of the petitioner rather the alleged liquor was recovered from '*Nandwara Petrol Pump*' which is an open place easily accessible. The petitioner has no concern with the alleged liquor and the motorcycles in question. The petitioner was not arrested on the spot. His name has sprung up in the present case on the basis of disclosure made by the local *Chowkidar*. It is further submitted that the seizure list has been prepared on 15.03.2024 at 11.35 A.M. however as to when the F.I.R. has been lodged on 15.03.2024 at 14.02 P.M. but it is surprising that the case number has been mentioned in the seizure list prior to lodging of the F.I.R. which creates doubt about the prosecution case. There is no compliance of Section 100 of the Cr.P.C. The petitioner has three criminal antecedents in which he is on bail as stated in paragraph no. 3 of the bail application.

5. Learned A.P.P. for the State has opposed the prayer for anticipatory bail of the petitioner.

6. Considering the aforesaid facts and circumstances of the case, let the above named petitioner, in the event of his arrest/surrender within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail bond of Rs. 20,000/- (Twenty Thousand) with two sureties of the like



amount each to the satisfaction of learned Exclusive Special Judge, Excise, Court No. 1, Sitamarhi, in connection with Bairgania P.S. Case No. 71 of 2024, subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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