

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36499 of 2024

Arising Out of PS. Case No.-27 Year-2024 Thana- KOTWA District- East Champaran

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KRISHNA RAI S/O BIRENDRA RAI @ BAGAD RAI R/O Village- Bairiya,
P.S.- Kotwa (Bhopatpur O.P.), Dist.- East Champaran

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Karandeep Kumar, Adv.

For the Opposite Party/s : Mr. Madan Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 2 10-05-2024 1. Heard learned counsel for the petitioner as well as 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), 32, 41(i) of Bihar Prohibition and Excise (Amendment) Act in connection with Kotwa (Bhopatpur) P.S. Case No.27 of 2024.
3. The learned counsel for the petitioner submits that the petitioner is a person with clean antecedent and allegation is of recovery of 1080.72 litres of liquor from his house.
4. It is next submitted that petitioner was not arrested from the spot as such nothing was recovered from his conscious possession and after amendment in the Excise Act in the year 2018, the concept of deemed possession and presumed offender



has been done away with. It is next submitted that the house in question is a joint family property. As such, 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. It is also submitted that he came to be implicated at the instance of *Chowkidar* with whom he is on an inimical term. It is next submitted that if the *Chowkidar* 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 FIR, which casts an aspersion on the case of the prosecution, when the petitioner admittedly is a person of clean antecedent.

5. The learned APP for the State opposes the anticipatory 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.500/- (Rupees Five Hundred) with two sureties of the like amount each to the satisfaction of the learned Special Judge Excise Court No 1, East Champaran, Motihari in connection with Kotwa (Bhopatpur) P.S. Case No.27 of 2024, subject to the conditions



laid down under Section 438(2) of the Cr.P.C.

7. 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 petitioner has antecedent of even one case, in that event, the present anticipatory bail order shall not be given effect.

8. The application stands allowed.

(Satyavrat Verma, J)

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