

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34949 of 2024

Arising Out of PS. Case No.-181 Year-2023 Thana- SIWAIPATTI District- Muzaffarpur

Jitendra Rai @ Jitendra Prasad Yadav @ Jitendra Kumar Yadav Son of
Ramsevak Rai Resident of Village - Raghai, P.O. + P.S. - Siwaipatti, District -
Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Ms. Poonam Kumari, Advocate Mr. Brahmaputra Singh Ishu, Advocate
For the Opposite Party/s	:	Mr. Jagdhar Prasad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 16-05-2024 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
273/34 of the Indian Penal Code and Section 30(a) of the Bihar
Prohibition and Excise Act, 2016-18.

3. Learned counsel for the petitioner submits that
petitioner has antecedent of two cases.

4. Allegation is of recovery of 15 litres of liquor from
the house of the petitioner, 10 litres of liquor from the house of
Umashankar Rai and 3.78 litres of liquor from the possession of
Raghuvir Sahani.

5. Learned counsel for the petitioner submits that
petitioner was not arrested from the spot, as such, nothing was



recovered from his conscious possession. It is further submitted that 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 the knowledge of the petitioner and he came to be implicated at the instance of the Chawkidar with whom he is on an inimical term. It is also submitted that if the Chawkidar was aware of the involvement of petitioner in the occurrence then why he did not inform the police prior to the institution of the instant FIR which casts an aspersion on the case of the prosecution.

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.10,000/- (Rupees Ten 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 Siwaipatti P.S. Case No. 181 of 2023, 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 more than two cases in that event the present anticipatory bail order shall not be given effect to.

(Satyavrat Verma, J)

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