

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36388 of 2024

Arising Out of PS. Case No.-21 Year-2024 Thana- TEYAR District- Bhojpur

Birendra Musahar @ Birendra Mushar, Son of Late Saryu Musahar R/O Vill.-
Hetampur, P.S.- Tiyar, Dist.- Bhojpur, Ara

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms.Malti Kumari

For the Opposite Party/s : Mr.Chandra Bhushan Prasad- A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 21-06-2024 1. Heard learned counsel for the petitioner and
learned APP for the State.

2. The petitioner seeks bail in anticipation of his
arrest in a case registered for the offences punishable under
Sections 30(a) and 30(d) of the Excise Act.

3. The learned counsel for the petitioner submits that
the petitioner is a person with clean antecedent and the
allegation is of recovery of 15 litres of liquor along with 600
litres of mahua solution from the house of Baul Dome and 400
litres of mahua solution from the house of the petitioner.

4. The learned counsel for the petitioner submits that
petitioner was not arrested from the spot, as such, nothing was
recovered from his conscious possession and after Amendment
in the Excise Act, 2018, the concept of deemed possession and



presumed offender has been done away with. It is also submitted that even the house, which is a joint family property and thus, 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 and he came to be implicated based on secret information, which is the easiest way to implicate someone, when admittedly petitioner is a person with clean antecedent.

5. Learned A.P.P. Sri Chandra Bhushan Prasad 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 Ten 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 Mr. Arun Kumar Sharma, the learned Exclusive Special Excise Judge, Excise Court No.II, Bhojpur, Ara in connection with Tiyaar P. S. Case No.21 of 2024, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

7. The application stands allowed.

8. It is made clear that the learned trial Court before



accepting the bail bonds of the petitioner shall verify the criminal antecedent 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 application shall not be given effect to.

(Satyavrat Verma, J)

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