

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40469 of 2024

Arising Out of PS. Case No.-117 Year-2024 Thana- SONO District- Jamui

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1. Garden Murmu @ Gardan Murmu @ Rajesh Chode, S/o Sitaram Murmu @ Sanjo Chode Village- Baradmara, P.S.- Sono, Dist- Jamui
 2. Masi Murmu @ Masi Chode, S/o Sitaram Murmu @ Sanjo Chode Village- Baradmara, P.S.- Sono, Dist- Jamui

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sandeep Kumar Mandal
For the Opposite Party/s : Mr.Narsingh Tanti

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 2 02-07-2024 1. Heard learned counsel for the petitioners and learned APP for the State.
2. The learned counsel for the petitioner seeks permission to withdraw the present anticipatory bail application with respect to petitioner no.2, namely, Masi Murmu @ Masi Chode.
3. Permission is accorded.
4. Accordingly, instant petition is dismissed as withdrawn with respect to petitioner no.2, namely, Masi Murmu @ Masi Chode..
5. The petitioner no.1 seeks bail in anticipation of his arrest in a case registered for the offences punishable under



Section 30(a) of the Excise Act.

6. 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 from the house of petitioner.

7. 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 and 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 at the instance of Chaukidar with whom he is on an inimical term. It is further submitted that if Chaukidar was aware of the involvement of the petitioner in the occurrence, then why he did not inform the police prior to institution of the present F.I.R., which cast an aspersion on the case of the prosecution, when admittedly petitioner is a person with clean antecedent.

8. Learned A.P.P. opposes the bail application.

9. Considering the submissions made by the learned



counsel for the petitioner, the petitioner no.1, namely, Garden Murmu @ Gardan Murmu @ Rajesh Chode, 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) each with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge Excise-II, Jamui in connection with Sono P. S. Case No.117 of 2024, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

10. The application stands allowed.

11. 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 no.1 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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