

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46112 of 2024

Arising Out of PS. Case No.-24 Year-2024 Thana- KATEYA District- Gopalganj

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Anup Upadhyay @ Anup Kumar Upadhyay S/o Kisan Upadhyay @
Krishnakant Upadhyay @ Krishnkant Upadhyay RESIDENT OF VILLAGE
HADARWA, HARARWAN, PS KATEYA, DISTRICT GOPALGANJ

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Lokesh Kumar Singh, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 24-07-2024 Heard learned Counsel for the petitioner and learned
APP for the State.

2. The petitioner apprehends his arrest in connection with Kateya P.S. Case No. 24 of 2024 for the offence registered under section 30(a) of the Bihar Prohibition and Excise Act lodged on 25.01.2024 by the informant, Jitendra Kumar.

3. As per the prosecution story, the informant alleged that the police apprehended one Manuwar Ali with 36 litres of country made liquor. He gave the name of the petitioner and in fact the seizure was also made from the motorcycle which is being owned by the petitioner. Accordingly, the F.I.R.

4. Learned Counsel for the petitioner submits that Manuwar Ali had taken a motorcycle from him and he did not realize that it is being used for movement of illegal liquor. He submits that only because of his criminal antecedent of the same nature, the police has implicated him.



5. Learned APP for the State, on the other hand, opposes the prayer for anticipatory bail submitting that he is the owner of the motorcycle.

6. There are two statements made by the petitioner at one place, he submits that the motorcycle belongs to him and on other, it is his submission that he is not the owner of the motorcycle.

7. In that background, considering the petitioner does not own the motorcycle, the anticipatory bail is granted.

8. If however, it is found that he is owner of the motorcycle, the bail order shall become infructuous. The concerned Court shall check the Registration paper to ascertain the same.

9. Let the petitioner in the event of arrest or surrender within a period of four weeks from the date of receipt of the order, shall be released on anticipatory bail on furnishing bail of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-XIII-cum-Special Judge, Excise Court No.-1, Gopalganj in connection with Kateya P.S. Case No. 24 of 2024 subject to condition as laid down under Section 438(2) of the Cr.P.C.



(i) one of the bailor should be the family members/relatives of the petitioner, who shall provide official document to show his *bona fide*;

(ii) the petitioner shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial court itself;

(iii) the petitioner shall appear before the concerned police station every fortnight for next six months to mark attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioner shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

(Rajiv Roy, J)

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