

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44537 of 2024

Arising Out of PS. Case No.-167 Year-2023 Thana- FULKAHA District- Araria

Niraj Kumar @ Niraj Kumar Das, aged about 24 years, Male, Son of Pramod Das, Resident of Village - Manikpur, Ward No. 15, P.S. - Fulkaha, District- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arun, Advocate

For the Opposite Party/s : Mr. Tarkeshwar Nath Thakur, APP

CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA

ORAL ORDER

3 23-08-2024 Heard learned counsel for the petitioner and learned APP for the State.

2. The petitioner apprehends his arrest in connection with Fulkaha P.S. Case No. 167 of 2023 instituted for the offences punishable under Section 414 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

3. As the prosecution case, total 140.1 liters Nepali Dilwale liquor were recovered from six motorcycles.

4. Learned counsel for the petitioner submits that petitioner is innocent and has falsely been implicated in this case. He further submits that petitioner was neither arrested at



the spot nor anything found from the conscious possession of the petitioner. He next submits that neither the petitioner was owner of the seized motorcycle nor he has any concern with the same. He submits that there is no any separate seizure list prepared rather a common seizure list was prepared of the total recovery of liquors. Petitioner has got five criminal antecedent as stated in para 3 of the petition.

5. Learned APP for the State has opposes the prayer for bail.

6. From perusal of the FIR, seizure list and also perused the impugned order dated 21.05.2024 passed by the learned A.D.J.-cum-Special Judge, Excise-II, Araria, it appears that petitioner is named in the FIR. *Prima facie*, it also appears that the petitioner is involved in transportation and sale of liquor. It appears that Total 140.1 liters of Nepali Dilwale liquor were recovered from six motorcycles, the involvement of the petitioner in the crime and also he has five criminal antecedent against him and out of three cases related to Bihar Prohibition of Excise Act.

7. Considering the aforesaid facts and circumstances of the case and submissions of learned counsels for the parties as well as involvement of the petitioner in the alleged



commission of offence, I am not inclined to grant anticipatory bail to the petitioner. However, the present anticipatory bail application comes under the provision of Section 76(2) of the Bihar Prohibition and Excise Act, 2016 and, thus, the present application is not maintainable, is accordingly dismissed.

8. Accordingly, the application stands dismissed.

9. However, the petitioner shall surrender before the Trial Court within a period of one month from today and the Trial Court may consider the bail of the petitioner without being prejudiced by the present order, in accordance with law.

(Ramesh Chand Malviya, J)

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