

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45475 of 2024

Arising Out of PS. Case No.-128 Year-2024 Thana- BARARI District- Katihar

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VIVEK KUMAR S/O LATE GHANSHYAM MANDAL R/O SAKRAILI
(MALIK TOLA), P.S- BARARI (SEMAPUR), DISTT.- KATIHAR.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Singh

For the Opposite Party/s : Mr. Ramchandra Sahni

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 202-07-2024
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 Section 30(a) of the Bihar Excise Act.
3. Learned counsel for the petitioner submits that the petitioner is a person with clean antecedent and allegation is of recovery of 4.125 liters of liquor from a motorcycle and thereafter it is alleged that the local person disclosed that the person who fled, was the petitioner, accordingly his house was raided and 12 liters of beer was recovered from his kitchen.
4. Learned counsel for the petitioner submits that the petitioner was not arrested from the spot as such nothing was recovered from his conscious possession and is not the owner of



the seized motorcycle and 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 also submitted that even the house 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 his knowledge when petitioner admittedly is a person with clean antecedent. It is next submitted that he came to be implicated by the local person but then the name of the person who disclosed the name of the petitioner is not disclosed in the FIR which casts an aspersion on the case of the prosecution.

5. Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner.

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 trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 1,000/- (Rupees One Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Barari Semapur P.S. Case No. 128 of 2024 subject to the conditions as laid down



under Section 438 (2) of the Cr.P.C.

7. However, it is made clear 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 order shall not be given effect to.

(Satyavrat Verma, J)

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