

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46533 of 2024

Arising Out of PS. Case No.-101 Year-2024 Thana- RAHIKA District- Madhubani

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Birju Mallik SON OF BHIKHAN MALLIK @ MAHENDAR MALLIK
VILLAGE- RAHIKA DURGA ASTHAN, PS- RAHIKA, DIST-
MADHUBANI

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ravi Prakash

For the Opposite Party/s : Mr. Manoj Kumar

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 219-07-2024
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 Sections 272, 273 and 34 of the Indian Penal Code read with 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 27 liters of liquor from the house of Sujit Kumar and 30.9 liters of liquor from the house of the petitioner.

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 after amendment



in the Excise Act in the year 2018, the concept of deemed possession and presumed offender has been done away with and 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 and he came to be implicated based on the confessional statement of Sujit in police custody which does not have any evidentiary value, when petitioner admittedly is a person with clean antecedent.

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. 500/- (Rupees Five Hundred) 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 Rahika P.S. Case No. 101 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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