

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49065 of 2024

Arising Out of PS. Case No.-105 Year-2024 Thana- DIGHWARA District- Saran

Birendra Kumar Yadav @ Birendra Ray S/O- Jagarnath Ray R/O Of Village-
Sitalpur, PS Dighwara District- Saran at Chapra

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Udai Shankar Singh, Advocate
For the State	:	Mr. Suresh Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 14-08-2024 Heard Mr. Udai Shankar Singh, learned counsel
for the petitioner and Mr. Suresh Prasad Singh, learned APP
for the State.

2. The petitioner is apprehending his arrest in connection with Dighwara P.S. Case No. 105 of 2024 for the offence under Sections 341, 323, 324, 307, 353, 504 506 and 34 of the I.P.C. and under Section 30(a) and 45 of the Bihar Prohibition and Excise Act, lodged on 12.04.2024 by the informant, Kumari Sima.

3. As per the prosecution story, the informant, the lady, ASI Kumari Sima of Dighwara Police Station alleged that she along with two constables having no. BHG201942 (Rajesh Ram) and BHG201864 (Kariman Ram) were on a



move due to the impending general election and as they reached Sitalpur four lane, found two four wheelers. It was intercepted and on search, 86.4 liters foreign liquor recovered/seized. The accused apprehended confessed that it was to be delivered to Surendra Rai and Birendra Rai (petitioner herein). Meanwhile, the allegation is that the locals assembled with sticks, rods and weapons, surrounded the police vehicle and took away the apprehended persons after pelting stones and assaulting them. They had to go to Primary Health Centre, Dighwara for the treatment. Accordingly, the F.I.R.

4. Learned counsel for the petitioner submits that, a bare perusal of the F.I.R would show that Anil Kumar Rai, Amarjeet Kumar Rai, and Kamal Goswami were apprehended and recovery/seizure is from them. This petitioner has been named by those who confessed before the police that it was to be delivered to him, he do not have criminal antecedent and nothing to do with the alleged recovery and/or the assault upon the police personnel. The last submission is that irrespective of the result of the present petition and/or accepting this allegation, the



petitioner wants to contribute Rs.10,000/- towards the treatment cost of the three police personnel who were part of the job but were assaulted.

5. Learned APP opposes the prayer submitting that he has been named by the apprehended persons, who were subsequently freed by the locals.

6. Taking into account the fact that nothing has been recovered from his conscious possession, his name has cropped up on the confession of apprehended persons from whom there was a recovery of 86.4 liters foreign liquor, the petitioner do not have criminal antecedent, this Court is inclined to be submitted to extend him the privilege of anticipatory bail, subject to payment of Rs. 10,000/- out of which Rs. 4,000/- shall go to the **ASI, Kumari Sima** (*who was then posted at Dighwara Police Station*), Rs.3,000/- each to the other two other constables (**Rajesh Ram** and **Kariman Ram**) and three drafts have to be made in the name of the aforesaid police personnels to the tune of Rs. 4,000/-, Rs. 3,000/- and Rs. 3,000/- respectively issued by the local State Bank of India Branch which will be submitted at the time of execution of the bail bond before



the concerned court and to be handed over to the concerned police personnel after checking their credentials.

7. It is further observed that, if the petitioner is found to have criminal antecedent, the order shall become infructuous.

8. Let the petitioner be released on bail in the event of arrest or surrender within a period of four weeks from the receipt of this order, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of like amount each to the satisfaction of learned Additional District Judge 2nd -cum- 1st Exclusive Special Court Excise, Saran at Chapra, in connection with Dighwara P.S. Case No. 105 of 2024, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. as also with following conditions:-

(i) one of the bailor should be the family member/relative of the petitioner who shall provide official document to show his/her 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 his 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 his bail bonds.

(Rajiv Roy, J)

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