

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49122 of 2024

Arising Out of PS. Case No.-129 Year-2023 Thana- TAJPUR District- Samastipur

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Gautam Kumar @ Gamma, Male, aged about 26 years, Son of Ram Narayan Ray @ Ramnarayan, Resident of Village-Harpur Bhindi, Police Station-Tajpur, District- Samastipur.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Bijay Bhushan Prasad, Advocate
For the Opposite Party : Mr. Md. Iftekhar Mahmood, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 13-09-2024 Heard learned counsel for the petitioner and learned A.P.P. for the State.

2. The petitioner is apprehending his arrest in connection with Tajpur P.S. Case No. 129 of 2023 dated 08.03.2023 registered for the offences punishable under Sections 30(a), 41(1) and 41(2) of the Bihar Prohibition and Excise (Amendment) Act, 2022.

3. As per the prosecution case, total 170.640 litres illicit foreign liquor was recovered from the Bolero vehicle. The local villagers and *Mahal Choukidar* have disclosed the name of the petitioner and two other co-accused persons as Dharmendra Kumar and Munchun Kumar who fled away from the vehicle in question.



4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in the present case. It is submitted that no incriminating article has been recovered from the conscious possession of the petitioner. The petitioner was not apprehended at the place of occurrence. There is no compliance of Section 100 of the Cr.P.C. It is further submitted that the name of the petitioner has come on secret information firstly and thereafter it is alleged that the petitioner alongwith other co-accused persons have been identified by the local villagers and *Mahal Choukidar* but the informant has not disclosed the name of the villagers who have disclosed the name of the petitioner and others. The place from where the alleged recovery of liquor was made does not belong to the petitioner and further the petitioner neither the driver nor the owner of the said *Bolero vehicle* from which the recovery has been made. The petitioner has no concern with the trade and business of illicit liquor. There is no impediment of restriction clause as provided under Section 76(2) of the Act shall come in way for consideration of anticipatory bail of the petitioner. The other co-accused person Dharmendra Kumar Ray @ Dharmendra Kumar has already been granted regular bail by a Bench of this Court vide Cr. Misc. No. 32060 of 2023 under order dated 22.05.2023.



The petitioner has clean antecedent as stated in paragraph no. 3 of the bail application.

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

6. Considering the aforesaid facts and circumstances of the case, let the above named petitioner, in the event of his arrest/surrender before the learned court below within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge (Excise)-02, Samastipur, in connection with Tajpur P.S. Case No. 129 of 2023, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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