

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55089 of 2024

Arising Out of PS. Case No.-436 Year-2022 Thana- BRAHMPUR District- Buxar

Bablu Upadhyay @ Viswajeet Upadhyay Son of Late Purshotam
Upadhaayay R/V- Sathpherawa, P.S.- Simri, Distt.- Buxar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Dr. Kamal Deo Sharma, Advocate

For the Opposite Party/s : Mr. Nand Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 23-08-2024 Heard learned counsel for the petitioner and learned
APP for the State.

02. In the present case, the petitioner seeks bail in connection with Brahampur (Chakki) P.S. Case No. 436 of 2022, registered for the alleged offences under Section 30 (a) of the Bihar Prohibition and Excise Act, 2016.

03. As per prosecution case, during checking of vehicles in an anti liquor drive, some persons on two motorcycles carrying sacks tried to flee away on seeing the police party. From one of the motorcycles a person and a sack fell down and the said person was apprehended and rider fled away with the motorcycle. Another motorcycle rider fled away leaving behind the motorcycle and sack. On search, recovery of 41.400 litres and 43.200 litres of India made foreign liquor, respectively was made from the sacks. The name of petitioner



transpired during investigation for also being involved in the smuggling of liquor.

04. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. The petitioner has been named in this case on the basis of confessional statement of co-accused, Chandan Kumar Yadav, who has been granted bail by this Court vide order dated 26.08.2022 passed in Criminal Misc. No. 36131 of 2022. Learned counsel further submits that petitioner has no concern either with the seized liquor or with the seized motorcycle. The petitioner is in custody since 28.06.2024. The petitioner is having antecedent of two cases and in both the cases, the petitioner is on bail.

05. Learned APP for the State opposes the prayer for bail. Learned APP submits that the petitioner is having antecedent of similar nature of two cases.

06. Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the fact that petitioner was not apprehended from the spot and no recovery has been shown from his conscious possession and further considering the period of custody of the petitioner, the petitioner above named is directed to be released on bail on



furnishing bail bonds of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, Excise Court No.02, Buxar in connection with Brahampur (Chakki) P.S. Case No. 436 of 2022, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and the following conditions:

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence for three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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