

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62575 of 2024

Arising Out of PS. Case No.-114 Year-2023 Thana- RAFIGANJ District- Aurangabad

Bachchu Sao @ Bachchu Saw SON OF MAHABAD SAW VILLAGE-
DEORA USAS, GAYA, PS- KONCH, DIST- GAYA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Arun Bharti, Adv.

For the Opposite Party/s : Mrs.Gulnar Begum, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

5 29-11-2024 At the outset, petitioner's counsel submits that he has

filed a supplementary affidavit online and permission is required

for filing its hard copy.

2. Permission is granted and the aforesaid hard copy
of the supplementary affidavit be kept on the record.

3. Heard Mr. Arun Bharti, learned counsel for the
petitioner and Mrs. Gulnar Begum, learned APP for the State.

4. The petitioner apprehends his arrest in connection
with Rafiganj P.S. Case No. 114/ 2023 dated 15.03.2023
registered for the offence(s) punishable under Section(s) 30(c)
of the Bihar Prohibition & Excise (Amendment) Act, 2018.

5. The main submissions advanced by the learned
counsel for the petitioner are that the instant matter relates to the
recovery of 4500 Kg. of Mahua flower from a truck bearing



registration No. BR2J 5242 and though, the said truck is presently registered in the name of this petitioner as being owner but in fact, the petitioner had sold the truck to one Ajit Kumar Sai on 29.10.2022 and in this regard, documentary proof has been filed before this court in the supplementary affidavit, so, the petitioner had no concern with the alleged transportation of Mahua flower and merely on account of the fact that petitioner is the registered owner of the vehicle, it cannot be presumed that the petitioner was directly or indirectly involved in the smuggling of the alleged excise material, so, in view of this fact, the alleged offence in which the F.I.R. has been registered does not even *prima facie* attract against this petitioner. It is further submitted that the petitioner is an old person and suffering from serious ailments and in this regard, medical report issued by a doctor, who is treating the petitioner, has been filed before this court by way of supplementary affidavit. It is further submitted that against the petitioner, there is criminal antecedent of one case but the same is relating to different offence under section 7 of the E.C. Act.

6. Though, the learned APP appearing for the State has opposed the bail prayer of the petitioner but fairly accepted that in the case diary, there is no material to show the direct or



indirect involvement of the petitioner in the alleged offence and during the investigation, the I.O. simply verified the ownership of the truck and found the same to be registered in the name of this petitioner and except this there is no other material.

7. Considering the facts and circumstances of this case as well as the above submissions, this court finds that except the petitioner being the owner of the vehicle in which alleged contraband was found, there is no material to show his direct or indirect role in the commission of the alleged offence and the learned APP has also not pointed out anything after seeing the case diary in support of the prosecution's allegation as to the petitioner being involved with the apprehended co-accused in the transportation of the alleged contraband. Further, as per the F.I.R., the apprehended co-accused disclosed that he was transporting the alleged contraband on the direction of Ajit Kumar Sai to whom the petitioner had sold his vehicle, as per the above submission. In the said circumstances, the prayer for anticipatory bail of the petitioner is maintainable and the same stands allowed. Accordingly, let the petitioner named-above, in the event of his arrest/surrender before the learned court below within a period of six weeks from today, be released on anticipatory bail in connection with Rafiganj P.S. Case No. 114/



2023 on furnishing bail bond of Rs. 20,000/-(Twenty Thousand) with two sureties of the like amount each to the satisfaction of the Court concerned, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Shailendra Singh, J)

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