

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58342 of 2024

Arising Out of PS. Case No.-873 Year-2021 Thana- FORBESGANJ District- Araria

Madan Lal @ Madan Kumar son of Ishwar Chand Mohalla-G-63 Block-G,
Part-1 Harkesh Nagar South Delhi- 110020, P.S.-Okhla Phase No.1, District-
South Delhi (New Delhi)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pawan Kumar, Advocate

For the Opposite Party/s : Mr.Ramchandra Sahni, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 21-09-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. In the present case, the petitioner is apprehending his arrest in connection with Forbesganj P.S. Case No. 873 of 2021, registered on 30.10.2021 for the offences under Sections 272, 273, 328/34 of the Indian Penal Code and Sections 30(a), 38(1) of Bihar Prohibition and Excise Act.

3. As per prosecution case, a container truck was intercepted by the police party on getting information that ut was being used to smuggle illicit liquor. From the said container truck, recovery of 2084.240 litres of foreign liquor was made. No person was apprehended and the name of the petitioner transpired during investigation as the owner of the seized truck.

4. Learned counsel for the petitioner submits that



the petitioner is innocent and has falsely been implicated in this case. The petitioner purchased the truck under a finance agreement with one Manappuram Finance Limited and as he could not make the payment of installments in terms of agreement, his truck was repossessed by the finance company and subsequently vide notice dated 12.11.2020, the petitioner was informed that the truck was sold to some other person and further demand of remaining amount was made from the petitioner. Learned counsel further submits that the repossession and subsequent sale were made prior to registration of the FIR in the present case. Hence, the petitioner has nothing to do either with the truck or the contraband seized from it. Learned counsel further submits that in these circumstances, no offence is made out under the Bihar Prohibition and Excise Act against the petitioner since no recovery has been made from the conscious possession of the petitioner. The petitioner is having clean antecedent.

5. Learned APP opposes the submission made on behalf of the petitioner.

6. Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the fact of sale of the vehicle much before the institution of the



FIR in the present case and further considering the doubtful nature of allegation against the petitioner, let the petitioner above named, in the event of his arrest or surrender before the court concerned within a period of eight weeks from today, be released on bail, on furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge Excise-I, Araria/concerned court in connection with Forbesganj P.S. Case No. 873 of 2021, subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure and other 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, if so required by the learned trial court.

(Arun Kumar Jha, J)

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