

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58729 of 2024

Arising Out of PS. Case No.-308 Year-2022 Thana- SAHEBPUR KAMAL District-
Begusarai

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Manoj Kumar Yadav Son of Late Duray Yadav @ Late Durai Yadav, Village-
Dumar, (Bakia), (Bakia Dumar), Police Station- Falka (Fabka), District-
Katihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sandip Kumar Gautam, Advocate
For the State : Mr. Upendra Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

2 12-08-2024 Heard Ld. counsel for the Petitioner and Ld. APP for
the State.

2. The Petitioner seeks anticipatory bail, apprehending
his arrest, in connection with Sahebpur Kamal P.S. Case No.308
of 2022, dated 11.11.2022 registered for the offence punishable
under Section 120(b) of the Indian Penal Code and also under
Sections 30(a), 32(i)(ii) and 41 (ii)(iii) of the Bihar Prohibition
and Excise Act, 2018.

3. As per allegation, total 873 liter of foreign liquor
from pickup Van and a swift car was recovered.

4. Ld. counsel for the Petitioner submits that the
Petitioner is innocent and has falsely been implicated in this
case. He further submits that the petitioner was neither arrested



on the spot nor any liquor has been recovered from his possession. Ld. counsel for the petitioner further submits that only basis of his implication in the case is that his pickup van has been alleged to be carrying illegal liquor. But he submits that there is no connivance of the petitioner in the alleged offence. He further submits that petitioner has already sold the pickup van to one Shambhu Prasad Sah. He has filed a copy of this sale deed. As such, he submits that the fundamental right of the petitioner is being curtailed without any rhyme and reason and legal basis. Hence, no offence is made out against the Petitioner and bar under Section 76(2) of the Bihar Prohibition and Excise Act, 2016 does not apply against him and hence, his anticipatory bail application is maintainable. He also refers to and relies upon **Sweta Kumari Vs. State of Bihar (Cr. Appeal No. 626 of 2022)**, wherein Hon'ble Supreme Court has in similar situation, observed that in such situation, anticipatory bail should not be denied to the Petitioner in view of Article 21 of the Constitution of India.

5. It is also stated in paragraph no. 2 of the bail petition that the Petitioner has not moved this Court earlier either for anticipatory bail or regular one in the instant case.

6. It has further been stated paragraph no.3 of the bail



petition that the Petitioner has no criminal antecedents.

7. Ld. APP for the State opposes the prayer of the Petitioner for anticipatory bail.

8. Considering the aforesaid facts and circumstances, particularly the ratio of Sweta Kumari Vs. State of Bihar (Cr. Appeal No. 626 of 2022), **this petition is allowed**, directing the Petitioner, above-named, to be enlarged on bail, in the event of his arrest or surrender before the court below within a period of eight weeks from the date of receipt / production of a copy of this order, on his furnishing bail bonds in the sum of Rs. 10,000 /- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Ld. Exclusive Special Judge-II, Begusarai in connection with Sahebpur Kamal P.S. Case No.308 of 2022, subject to the conditions as laid down under Section 438 (2) Cr.P.C. and on the following conditions:

(i) In case, it is brought to the notice of the court below that the Petitioner has any criminal antecedents, Ld. court below shall cancel the bail bonds of the Petitioner after hearing him and getting satisfied that the Petitioner has concealed his criminal antecedents despite his knowledge of the same.

(ii) In case, it is brought to the notice of the court below that statement regarding previous bail petition is wrong,



Ld. court below shall cancel the bail bonds of the Petitioner.

(Jitendra Kumar, J.)

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