

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61659 of 2023

Arising Out of PS. Case No.-512 Year-2023 Thana- SITAMARHI District- Sitamarhi

Mukesh Sharaf @ Mukesh Kumar Sharaf @ Mukesh Sah, Male, Aged about 37 years, S/O Anandi Prasad, R/O- Paswan Chowk, P.S- Sitamarhi, District- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anupam Prabhat Shrivastava, Advocate
For the Opposite Party/s : Mr. Khurshid Anwar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 27-02-2024 Heard Mr. Anupam Prabhat Shrivastava, learned counsel appearing on behalf of the petitioner and Mr. Khurshid Anwar, learned APP for the State.

2. The petitioner seeks pre-arrest bail in connection with Sitamarhi P.S. Case No. 512 of 2023 registered for the offence punishable under Sections 30(a) and 37 (d) of the Bihar Prohibition and Excise Act as amended up-to-date.

3. As per the allegation made in the FIR, 3 litres of beer of different brand were recovered from the restaurant run by the petitioner.

4. Learned counsel appearing on behalf of the petitioner submitted that petitioner is innocent and has falsely been implicated in the present case. The restaurant from which



the beer was recovered is easily accessible to any public, who comes to eat and in course of the same, raid was conducted, in which three litres of beer was recovered while the customer, who had dined out in his restaurant, had fled away and as such, the petitioner cannot be held liable either for sale or for manufacturing of illicit liquor, which is prohibited in the State of Bihar. Petitioner is having one antecedent of similar nature in which he is on bail. On these grounds, petitioner seeks to be released on pre-arrest bail.

5. Learned APP for the State vehemently opposed the prayer for grant of pre-arrest bail.

6. Having considered the rival submissions made on behalf of the parties, as well as, the quantity of liquor recovered is only three litres of beer and petitioner is having one antecedent which is of similar nature, the petitioner, above named, is directed to be released on pre-arrest bail, in the event of his arrest or surrender before the Court below within a period of four weeks from today, on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge Excise, Court No. II, Sitamarhi, in connection with Sitamarhi P.S. Case No. 512 of 2023, subject to the



condition that petitioner along with two respectable persons near his restaurant will file undertaking that he will not indulge in sale or manufacture of illicit liquor in future and other condition as laid down under Section 438(2) of the Cr.P.C.

7. The Court below is directed to verify the criminal antecedent of the petitioner as stated in paragraph no. 3 of the bail application. If any other case is pending against the petitioner as what has been stated in paragraph no. 3, this order will lose its force automatically.

(Purnendu Singh, J)

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