

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47915 of 2024

Arising Out of PS. Case No.-88 Year-2024 Thana- PIPRAKOTHI District- East Champaran

Rajesh Singh Son of Upendra Singh Resident of Village - Mahmmadpur
Balmi, Ward No.- 01, Police Station - Motipur, District - Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 65247 of 2024

Arising Out of PS. Case No.-88 Year-2024 Thana- PIPRAKOTHI District- East Champaran

Yogendra Rai @ Yogendra Yadav Son of Raghuvir Rai R/o Village- Sahar
Kola, P.S.- Bashantpur, District - Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 47915 of 2024)

For the Petitioner/s : Mr.Priyesh Kumar

For the Opposite Party/s : Mr. Chandra Bhushan Prasad, APP

(In CRIMINAL MISCELLANEOUS No. 65247 of 2024)

For the Petitioner/s : Mr.Asif Kalim

For the Opposite Party/s : Mr.Ramesh Chandra, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

7 20-12-2024 1. Heard learned counsel for the petitioners and
learned A.P.P. for the State, Shri. Chandra Bhushan Prasad.

2. The petitioners seek bail in a case registered for the offences punishable under Sections 272, 273, 308, 328, 414, 467, 468 and 471 of the Indian Penal Code and Section 30(a) of Bihar Prohibition and Excise Act, 2022 read with u/s 20(B)iiC,



23(c), 29 of N.D.P.S. Act.

3. The investigating Officer of the case, in compliance of the order dated 13-12-2024, is present in the Court.

4. Learned counsel for the petitioners submits that Rajesh Singh (Petitioner in Cr. Misc No. 47915 of 2024) has antecedent of four cases, but all the four cases are under the Excise Act and is in custody since 27-4-2024, while Yogendra Rai (Petitioner in Cr. Misc No. 65247 of 2024) is a person with clean antecedent and is in custody since 5-7-2024.

5. Learned counsel for the petitioners further submits that allegation is of recovery of 60,000 (sixty thousand) litres of raw spirit from two tankers and some spirit was also found kept in a car in four jerrycans, further about one kilogram of *charas* was also recovered from a Toyota car.

6. The learned counsel appearing on behalf of the Rajesh Singh (Petitioner in Cr. Misc No. 47915 of 2024) submits that the car, from which the *charas* is alleged to have been recovered, does not belong to him. It is also submitted that the FIR does not allege with clarity the quantity of *charas*, rather alleges that the *charas* recovered from the car was about one kilogram, when the commercial quantity of *charas* is one kilogram. The learned counsel next submits that since the



petitioner is having antecedent under the Excise Act, as such he came to be implicated in the instant case. It is also submitted that even the keys of the car were not recovered from possession of the petitioner, rather it was found lying on a table in the line hotel. It is further submitted that the charge-sheet was submitted in the case in complete breach of the provisions of Section 36A(4) of the NDPS Act, as has been recorded in the order dated 6-9-2024. It is further submitted that since charge sheet has been submitted, as such no useful purpose would be served by keeping the petitioner in jail, when the car from which the *charas* is alleged to have been recovered does not belong to the petitioner.

7. The learned APP, Shri. Chandra Bhushan Prasad, opposes the bail application and submits that during the course of investigation, it transpired that Rajesh Singh (Petitioner in Cr. Misc No. 47915 of 2024) along with other accused were in constant touch with Yogendra Rai (Petitioner in Cr. Misc No. 65247 of 2024), the driver of the tanker which was carrying spirit. The learned APP fairly submits that the spirit which was being carried in the tanker by Yogendra Rai was not a valid consignment. It is next submitted that the spirit was being carried by the tanker from Bharat Urja Distilleries Private



Limited, Motipur. It is next submitted that the spirit ought to have been a denatured spirit so that the spirit could not have been used for any other purpose, but then the spirit was not denatured, which amply demonstrates the connivance of Yogendra Rai in the case.

8. The learned counsel appearing on behalf of Yogendra Rai (Petitioner in Cr. Misc No. 65247 of 2024) vehemently rebuts the said submission of the learned APP and submits that Yogendra Rai was merely a driver of the aforesaid tanker and the tanker was digitally locked, which is not in dispute, but then the spirit, which was being carried in the tanker, was denatured spirit or not, that was the concern of the factory, which had loaded the spirit in the tanker, as such it is submitted that Yogendra Rai was not aware whether the spirit, which was being carried in the tanker, was denatured or not.

9. The learned APP further submits that even presuming what had been submitted by the learned counsel appearing on behalf of Yogendra Rai to be true, but then it has come during the course of investigation that Rajesh Singh and others were in constant touch with Yogendra Rai on phone, which amply demonstrates that Yogendra Rai was aware of the nature of the spirit which was being carried in the tanker for the



reason that from the place of occurrence four jerrycans were also recovered with spirit in it and the same was extracted by putting a pipe near the tank after breaking a portion of the tanker near the tank.

10. The learned counsel appearing on behalf of Rajesh Singh, at this stage, submits that even presuming what has come during the investigation to be true, in that event, at best it can be alleged that Rajesh Singh along with others were in touch with Yogendra Rai for purchasing the spirit, which was being carried in the tanker, but then the police in order to give seriousness to the case also alleges that *charas* was recovered from the car, which was standing at the place of occurrence, when the car does not belong to Rajesh Singh and the charge-sheet was also submitted in complete breach of the provision of Section 36A(4) of the N.D.P.S. Act. It is also submitted that once an accused is implicated in a case relating to liquor, the police starts implicating mechanically. It is next submitted that since charge sheet has been submitted, the petitioner will cooperate in the trial to prove his innocence as he does not have any antecedent under the NDPS Act.

11. The learned APP does not dispute the fact that the charge sheet was submitted in breach of the provisions of



Section 36A(4) of the NDPS Act, but then submits that the FSL report has come and the same records that the narcotic found was *charas*.

12. The learned counsel appearing on behalf of Yogendra Rai also submits that the petitioner will not abscond rather will cooperate in the trial to prove his innocence as charge sheet has been submitted.

13. After hearing the learned counsel for the parties, the petitioners are directed to be released on bail on furnishing bail bond of Rs. 50,000/- (Rupees Fifty Thousand) each with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Pipra Kothi P.S. Case No. 88 of 2024.

14. One of the bailors of Rajesh Singh (Petitioner in Cr. Misc No. 47915 of 2024) shall be his father, Upendra Singh and one of the bailors of Yogendra Rai (Petitioner in Cr. Misc No. 65247 of 2024) shall be his son, Ramesh Kumar.

15. It is made clear that if the learned trial court comes to a conclusion that petitioners after their release are trying to delay the trial in any manner, the learned trial court shall be at liberty to forthwith cancel the bail bonds of the petitioners and to take all coercive steps to ensure that petitioners are behind



bars.

16. The personal appearance of the Investigating Officer of the case is dispensed with.

(Satyavrat Verma, J)

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