

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62393 of 2024

Arising Out of PS. Case No.-1210 Year-2024 Thana- Excise P.S. District- East Champaran

Avinish Kumar Tiwari, Son of Late Madan Tiwari, R/O Vill.- Harnarayan,
Ward no. 08, P.S.- Pipra, Dist.- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dhananjay Kumar Tiwari, Advocate
For the Opposite Party/s : Mr. M.K. Nirala, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 04-09-2024 Heard Mr. Dhananjay Kumar Tiwari, learned
Advocate appearing on behalf of the petitioner and the learned
Additional Public Prosecutor for the State.

2. The application for grant of bail to the petitioner who is in custody in connection with Excise Motihari P.S. Case No. 1210 of 2024 registered for the offence punishable under Sections 30(a) of the Bihar Prohibition & Excise (Amended up-to-date) Act, 2016.

3. Based upon the written report the prosecution alleges that the police on a tip off trafficking of illicit wine intercepted two vehicles including the Maruti Suzuki Wagon-R bearing registration no. UP-15AE-5664 which is said to have been driven by the petitioner. On search total 38.880 litres Indian made foreign liquor was recovered.

4. Learned Advocate appearing on behalf of the



petitioner contended that the petitioner has neither any concern with the illicit wine, nor with the car in question, except he being driver of the car who runs the same on the instruction of the owner. It is next contended that though the alleged recovery has been made from a public place but surprisingly there is no independent witness to the search and seizure and, as such, in complete defiance of Section 100 of the Code of Criminal Procedure. The petitioner bears fair antecedent and he has never been found involve in such type of activities prior to the present crime. Now the petitioner is in custody since 27.07.2024. The investigation of the crime is complete.

5. On the other hand, learned Additional Public Prosecutor for the State vehemently opposes the bail application.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that the petitioner is a driver having fair antecedent and the investigation of the crime is complete, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Excise Court No. 02, East Champaran, Motihari in connection with Excise Motihari P.S. Case No. 1210 of 2024, subject to the condition that one of



the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) The court below shall verify the criminal antecedent of the petitioner and in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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