

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71809 of 2024

Arising Out of PS. Case No.-38 Year-2024 Thana- MUSRIGHRARI District- Samastipur

Vikash Kumar @ Vikash Kumar Kapar @ Vikash Kapar Son of Sikandar
Kapar Resident of Village -Gunai Bashi, PS -Tajpur, District -Samastipur
... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dilip Kumar Roy, Adv.
For the Opposite Party/s : Ms.Shaheen Begum, APP

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA
ORAL ORDER

2 27-09-2024 Learned counsel for the petitioner prays for and is

allowed to make necessary correction in Para-15 of the present

bail application.

2. Heard learned counsel for the petitioner and learned
APP for the State.

3. Learned counsel for the petitioner submits that the
petitioner had earlier moved before this Court with a prayer for
anticipatory bail in Cr. Misc. No. 51044 of 2024 which was
allowed vide order dated 02.08.2024 but, he could not file the
bail bonds as the petitioner was arrested by the police on
22.07.2024 i.e. before passing of the aforesaid order dated
02.08.2024, granting anticipatory bail to the petitioner though
the fact regarding arrest of the petitioner was not brought before
this Court at the time of passing of the aforesaid order dated
02.08.2024.



4. The petitioner seeks bail in connection with Musrigharari P.S. Case No. 38 of 2024 instituted for the offences under Sections 419, 420 of the Indian Penal Code and Section 30(a)/33/36/41 of the Bihar Prohibition and Excise Act, 2022.

5. As per prosecution case, the police has recovered altogether 600 liters spirit from the house of the co-accused Umesh Kumar @ Nanki and from a Santro car bearing Regd. No. BR1AC 9241.

6. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence as alleged against him and has falsely been implicated in the present case due to dirty village politics. He further submits that nothing incriminating has been recovered from the conscious possession of the petitioner. There is no direct or specific allegation of any overt act against the petitioner rather the same is general and omnibus in nature. The petitioner has no concern with the seized liquor. There is no any report of forensic science laboratory that the recovered articles are intoxicant. There is a non-compliance of Section 100 of the Cr.P.C. which creates a serious doubt in the prosecution case. The petitioner has one criminal antecedent in which he is on bail as has been stated in Para-4 of the



supplementary affidavit and is languishing in judicial custody since 22.07.2024 without any rhymes or reason. Charge-sheet has been submitted against the petitioner. The name of the petitioner has come in this case on the basis of confessional statement of the co-accused Krishna Kumar Sahni who has already been granted bail by this Court vide order dated 07.05.2024 passed in Cr. Misc. No. 35103 of 2024.

7. On the other hand, learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner.

8. So far as the order dated 02.08.2024 passed in Cr. Misc. No. 51044 of 2024, granting anticipatory bail to the petitioner is concerned, this Court is of the view that the same has lost its judicial value as the petitioner was already arrested by the police before passing of the aforesaid order. Accordingly, the order dated 02.08.2024 passed in Cr. Misc. No. 51044 of 2024 is hereby recalled.

9. Having heard rival contention of both the parties and considering the entire facts and circumstances of the case as also taking into account the period of custody of the petitioner, let the petitioner, abovenamed, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Court



below/concerned Court in connection with Musrigharari P.S.
Case No. 38 of 2024,

(Rudra Prakash Mishra, J)

rishi/-

U		T	
---	--	---	--

