

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72956 of 2024

Arising Out of PS. Case No.-757 Year-2024 Thana- Excise P.S. District- Lakhisarai

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Krishna Kumar Son of Sanjay Kumar Resident of Santar Mohalla Ward No. 13, PS- Lakhisarai, District- Lakhisarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar, Adv.

For the Opposite Party/s : Mr.Md. Ataur Rahman, APP

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 08-10-2024 As prayed for, learned counsel for the petitioner is permitted to make necessary correction in the provision of law under which the present bail petition has been filed, during the course of the day.

2. Heard learned counsel for the petitioner and learned A.P.P. for the State.

3. The petitioner seeks bail in connection with Excise P.S. Case No. 757 C2 of 2024 registered for the offences punishable under Section 37 of the Bihar Prohibition and Excise Act.

4. As per prosecution case, petitioner is said to have found in intoxicated condition on the basis of Breath Analyzer Test.

5. Learned counsel for the petitioner submits that



petitioner is quite innocent and has not committed any offence as alleged in the first information report. No incriminating article has been recovered from the possession of the petitioner as is evident from the F.I.R. as well as seizure list. Breath Analyzer test is not a conclusive test for deciding that a person has taken alcohol or not. There are several other tests which can determine whether a person has taken alcohol or not. The Breath Analyzer test is already in question. Because of having criminal antecedent of two cases, petitioner has been implicated in the present case. Petitioner is in custody since 27.08.2024.

6. The learned A.P.P. for the State opposes the prayer for bail of the petitioner.

7. Considering the facts and circumstances of the case, period of custody, argument advanced on behalf of both sides and the material available on record, let the petitioner above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of Additional District & Sessions Judge V-cum-Exclusive Special Excise Court II, Lakhisarai in connection with Excise P.S. Case No. 757 C2 of 2024, subject to following conditions:-

(i) One of the bailors shall be either father or mother



or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the petitioner tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

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