

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78118 of 2024

Arising Out of PS. Case No.-238 Year-2022 Thana- MAHNAR District- Vaishali

Sanjay Rai @ Loha Singh @ Sanjay Kumar Son of Late Indradev Rai
Resident of Village - Thanpur, Post - Parmanandpur, Police Station - Mahnar,
District - Vaishali, Pin - 844507

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner	:	Mr. Gajendra Kumar Singh, Advocate. Mr. Abhay Kumar, Advocate.
For the State	:	Mr. Gauri Shankar Gupta, APP

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

2 22-11-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. The present petition has been filed on behalf of the petitioner, apprehending his arrest, in connection with Mahnar P.S. Case No. 238 of 2022 dated 12.08.2022, registered for the offences punishable under Sections 30(A) and 32(ii) of the Bihar Prohibition and Excise Act.

3. As per allegation, there is recovery of 707.04 litres of liquor from the Tata Safari vehicle and the persons who had loaded the contraband in the vehicle allegedly fled away. The informant has given the name of the petitioner along with other co-accused persons on the basis of statement of local *Chowkidar*.

4. Learned counsel for the Petitioner submits that the Petitioner is innocent and has falsely been implicated in this case. He further submits that there is no truth in the claim of the



informant/Police Officer that petitioner was one of the persons loading the seized contraband in the vehicle and fleeing away, because had it been so, he could have been followed and apprehended by the Police. Hence, without any basis, the name of the petitioner has been given in the First Information Report and there is no legal basis to curtail fundamental right to liberty of the petitioner. He also submits that similarly situated co-accused Dipak Kumar @ Dipak Sah has already been enlarged on anticipatory bail by a co-ordinate Bench of this Court vide order dated 23.12.2022 passed in Cr. Misc. 71217 of 2022.

5. It is also stated in paragraph no. 2 of the bail petition that the petitioner has not moved this Court earlier either for anticipatory bail or regular one in the instant case.

6. It has further been stated in paragraph no.3 of the petition that petitioner has been made accused in nine other criminal cases.

7. Ld. APP for the State vehemently opposes the prayer of the Petitioner for bail submitting that the anticipatory bail is not maintainable in view of the allegation.

8. However, from the material on record, I find that there is no legal material on record to make out a *prima facie* case under the Excise Act against the petitioner.



9. Considering the aforesaid facts and circumstances, **this petition is allowed**, directing the petitioner above-named, to be enlarged on bail, in the event of his arrest or surrender before the court below within a period of eight weeks from the date of receipt / production of a copy of this order, on his furnishing bail bonds in the sum of Rs.10,000 /- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Excise Court No. 2, Vaishali at Hajipur, in connection with Mahnar P.S. Case No. 238 of 2022, subject to the conditions as laid down under Section 438 (2) Cr.PC and on the following conditions:

(i) In case, it is brought to the notice of the court below that the petitioner has any criminal antecedents, Ld. court below shall cancel the bail bonds of the petitioners after hearing them and getting satisfied that the petitioners have concealed their criminal antecedents despite their knowledge of the same.

(ii) In case, it is brought to the notice of the court below that statement regarding previous bail petition is wrong, learned court below shall cancel the bail bonds of the petitioner.

(Jitendra Kumar, J)

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