

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81714 of 2024

Arising Out of PS. Case No.-85 Year-2023 Thana- BADHAILA District- Rohtas

Sunil Kumar Sharma Son of Ram Pravesh Sharma R/O-Village- Narayanpur ,
PS- Indrapuri , Distt.- Rohtas

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner	:	Mr. Rajani Kant Singh, Advocate
For the State	:	Mr. Yogendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

2 04-12-2024 Heard Ld. counsel for the petitioner and Ld. APP
for the State.

2. The petitioner seeks anticipatory bail, apprehending his arrest, in connection with Baghaila P.S. Case No. 85 of 2023 dated 21.09.2023 registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2022.

3. As per the allegation, there is recovery of 20 liters of liquor from a bag which was being carried by a motorcyclist on his back.

4. Learned counsel for the Petitioner submits that the Petitioner is innocent and has falsely been implicated in this case. He further submits that he was neither the owner of the vehicle nor was he driving the vehicle at the time of the alleged occurrence. He further submits that he had already sold his



vehicle to someone else prior to the occurrence. He also submitted that as per the alleged facts and circumstances, no motorcycle can be deemed to be used illicit trade because the contraband was being carried by the motorcyclist in his carry bag on his back and hence the motorcycle could not be deemed to be used in the illicit trade of liquor and hence, there can be no presumption of commission of any offence against the owner of the vehicle under Section 32 of the Excise Act.

5. As such there is no case made out against the Petitioner under Excise Act and the Petitioner is entitled to get anticipatory bail.

6. 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.

7. It has further been stated paragraph no.3 of the bail petition that the petitioner has no criminal antecedents.

8. However, Ld. APP for the State vehemently opposes the prayer of the Petitioner for bail.

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 Ld. Exclusive Special Judge, Excise Court No.1, Rohtas at Sasaram, in connection with Baghaila P.S. Case No. 85 of 2023, subject to the conditions as laid down under Section 438 (2) Cr. P.C. 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 petitioner after hearing him and getting satisfied that the petitioner has concealed his criminal antecedents despite his 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, Ld. court below shall cancel the bail bonds of the petitioner.

(Jitendra Kumar, J.)

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