

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81627 of 2024

Arising Out of PS. Case No.-551 Year-2023 Thana- Excise P.S. District- Kishanganj

Rohit Kumar Rajak S/o- Dinesh Kumar Rajak Resident of village-Simariya
P.S- Jokihaat District- Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Raj Kumar, Advocate Mr. Pratik Kumar, Advocate
For the State	:	Mr. Parmanand Prasad, 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 present petition has been filed on behalf of the petitioner, apprehending his arrest, in connection with Special Case No. 582 of 2023 arising out of Madya Nisedh P.S. Case No. 551 of 2023, dated 18.04.2023, registered for the offences punishable under Sections 30(a) and 32(3) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

3. As per the allegation, 2.5 litre of beer has been recovered from backpack of the pillion rider of the motorcycle belonging to the petitioner.

4. Ld. counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated. He further



submits that petitioner was neither driving the motorcycle nor was he present on the place of occurrence. As per the alleged facts and circumstances, the motorcycle in question cannot be deemed to be used in the illicit trade. Hence, there is no question of raising presumption under Section 32 of the Excise Act against the petitioner/owner of the motorcycle. As such, there is no legal basis for lodging the present F.I.R. against the petitioner. Curtailment of personal liberty of the petitioner on such facts and circumstances would be violative of Article 21 of the Constitution.

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 the petitioner has no criminal antecedent.

7. However, Ld. APP for the State vehemently opposes the prayer of the petitioner for bail.

8. 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/-(Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Ld. Exclusive Special Judge (Excise-II), Kishanganj, in connection with Special Case No. 582 of 2023 arising out of Madya Nisedh P.S. Case No. 551 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 criminal antecedents other than the disclosed one, 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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