

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84133 of 2023

Arising Out of PS. Case No.-408 Year-2023 Thana- SAMASTIPUR MUFFASIL District-
Samastipur

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Rakesh Kumar @ Rakshi Son Of Satto Ray Resident Of Village- Vishunpur
Malti, P.S. Samastipur Muffasil, District- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Mritunjay Kumar
For the Opposite Party/s : Mr.Sanjay Kumar Pandey

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 16-01-2024 Heard learned counsel for the petitioner and
learned A.P.P. for the State.

The petitioner seeks bail in connection with
Samastipur Mufassil P.S. Case No. 408/2023 registered for the
offences punishable under Sections 30(a) of the Bihar
Prohibition and Excise (Amendment) Act, 2018.

As per prosecution case, total 177.450 litres
foreign liquor was recovered from, TVS Apache motorcycle,
TVS Scooty and Wagon-R vehicle in question. It is further
alleged that petitioner and other apprehended on spot.

Learned counsel for the petitioner submits that
petitioner is innocent and has committed no offence as alleged
in the FIR and he has falsely been implicated in this case. It is



further submitted that co-accused Pritam Kumar Sawan, on similar and identical allegation has already been granted bail by a co-ordinate bench of this Court vide Cr. Misc. No. 73372 of 2023 and on the principal of parity, petitioner also deserves bail. No incriminating article has been recovered from conscious possession of the petitioner. Petitioner has been apprehended on spot merely on account of suspicion. Except suspicion, there is nothing on record to connect the present petitioner with the alleged occurrence. Petitioner has got no concern with the vehicles in question and he has no knowledge about the alleged recovery. Petitioner is in custody since 08.09.2023. Petitioner bears criminal antecedent of two cases in which he is on bail.

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

Considering the facts and circumstances of the case, period of custody, co-accused has already been granted bail, argument advanced on behalf of both sides and also taking into consideration 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) with two sureties of the like amount each to the satisfaction of learned Special Judge Excise Act, Court No. 1, Samastipur in connection with Samastipur



Mufassil P.S. Case No. 408/2023, subject to the 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 tampers 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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