

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83916 of 2023

Arising Out of PS. Case No.-235 Year-2023 Thana- KHARIK District- Bhagalpur

MD. WASIM RAZA@WASHIM RAZA Son of Md. Subhan R/o vill - Hathi
Aundha, P.s. - Bihari Ganj, Distt. - Madhepura

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajive Ranjan Singh, Adv.

For the Opposite Party/s : Mr.Uma Shankar Prasad Singh, A.P.P.

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.

2. The petitioner seeks bail in connection with
Kharik P.S. Case No. 235 of 2023 registered for the offences
punishable under Section 30(a) of Bihar Prohibition and Excise
Act, 2018.

3. As per prosecution case, 246.280 litre foreign
liquor was recovered from Pick-up van in question and
petitioner was apprehended on the spot. On query, petitioner
disclosed that co-accused Dablu Yadav instructed him to deliver
the said liquor to co-accused Monu Kumar.

4. Learned counsel for the petitioner submits that
petitioner is not the owner of the said pick-up van in question.
He is merely a driver and being a driver, he has to follow the



instruction of the owner to earn the livelihood. Petitioner is in custody since 11.10.2023 and bears no criminal antecedent. Petitioner is quite innocent and has committed no offence as alleged against him in F.I.R. and he has falsely been implicated in the present case. Seizure list has not been prepared as per law. He further submits that from the bare perusal of seizure list and F.I.R itself, it appears that there is complete violation of Section 172(1) of Cr.P.C. as the F.I.R. was lodged on 10.10.2023 at 7:45 but the seizure list was prepared at 4:00 A.M. on the same day, prior to intimation of the F.I.R.

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

6. Considering the facts and circumstances of the case, period of custody, keeping in view clean antecedent of petitioner, 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 Exclusive Special Excise Judge, Ist, Bhagalpur in connection with Kharik P.S. Case No. 235 of 2023, 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 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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