

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84409 of 2024

Arising Out of PS. Case No.-188 Year-2023 Thana- JALALPUR District- Saran

Prashant Kumar, Son of Late Mithlesh Das, R/O Vill.- Bazar Samiti, Ward no. 28, P.S.- Lakhisarai, Dist.- Lakhisarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner : Mr. Rajnish Chandra, Advocate.
For the State : Mr. Dashrath Mehta, APP

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

2 11-12-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner seeks bail, apprehending his arrest, in connection with Jalalpur P.S. Case No. 188 of 2023 dated 27.7.2023, registered for the offence punishable under Section 30(a) Bihar Prohibition and Excise Act.

3. As per allegation, 20 litres country made liquor was recovered from a sack being carried by Motorcyclist and a pillion rider of the Motorcycle bearing Chassis No. ME11CK05IE2015355.

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 driving the Motorcycle nor sitting as pillion rider on the Motorcycle. He is



alleged to be the owner of the vehicle but he has already sold his vehicle on 23.06.2019 to one Sanni Kumar. He also submits that as per the alleged facts and circumstances, the Motorcycle cannot be deemed to be involved in carrying the illegal liquor because it was being carried by the driver and the pillion rider having the same in a sack and holding it. Hence, even otherwise there cannot be presumption of connivance of owner of the Motorcycle in the alleged offence and, hence, no *prima facie* case is made out against the petitioner.

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 bail petition that the petitioner has no criminal antecedents.

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 /- (Ten Thousand)



with two sureties of the like amount each to the satisfaction of learned 2nd Exclusive Special Excise Judge, Saran at Chapra, in connection with Jalalpur P.S. Case No. 188 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, learned 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, learned court below shall cancel the bail bonds of the petitioner.

(Jitendra Kumar, J)

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