

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84422 of 2024

Arising Out of PS. Case No.-487 Year-2024 Thana- ARA NAGAR District- Bhojpur

Aditya Raj S/O Naresh Prasad Keshri Vil.- Suitha Parsa Bazar, P.S.-
Phulwarisharif, Dist.- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Akash Kumar Mishra, Advocate
For the State : Mr. Awadhesh Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

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

2. The petitioner seeks anticipatory bail, apprehending
his arrest, in connection with Ara Town PS. Case No.-487 of
2024 dated 05.08.2024, registered for the offences punishable
under Section 30(a) of the Bihar Prohibition and Excise
(Amendment) Act, 2022.

3. As per allegation, total 500 ml. beer has been
recovered from Maruti Dzire Car bearing Registration No. BR-
01PQ-0741 in which five co-accused persons were sitting. All
the co-accused persons, who were sitting in the car, were
arrested on the spot and vehicle was seized.

4. Learned counsel for the petitioner submits that the
petitioner is innocent and has falsely been implicated in this

case. He further submits that neither the petitioner was present on the place of occurrence, nor is he any way connected with the alleged offence. Petitioner has been implicated because he is owner of the vehicle. He further submits that as per the alleged facts and circumstances, the vehicle cannot be deemed to be used to carry the contraband liquor. Hence, there is no question of any presumption against the petitioner/owner of the vehicle under Section 32 of the Excise Act. Even, vehicle was not liable to be seized. At most, case should have been lodged against the persons sitting in the car with possession of the alleged recovered liquor.

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 paragraph no.3 of the bail petition that the petitioner has clean antecedent.

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

8. In view of the aforesaid facts and circumstances, the vehicle cannot be deemed to be used to carry 500 ml. contraband liquor. Hence, there is no legal justification to seize the vehicle and prosecuted the owner of the vehicle.

Accordingly, **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 Excise Court No.I, Bhojpur at Ara, in connection with Ara Town PS. Case No.-487 of 2024, 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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