

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.599 of 2024

Arising Out of PS. Case No.-112 Year-2022 Thana- DARBHANGA SADAR District-
Darbhanga

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Rakesh Vishwakarma @ Rakesh Bishwakarma Son of Late Dipak Biswakarma R/o vill - Tani, P.S. - Ita Nagar, Dist. - Papunpare, Arunachal Pradesh and at present r/o vill - Jogi Bari @ Jogabari, P.S. - Gohpur, Distt. - Sonitpur, State - Assam

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Rupa Kumari

For the Opposite Party/s : Mr.Kumar Ranjit Ranjan

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 24-01-2024 Heard learned counsel for the petitioner and
learned A.P.P. for the State.

The petitioner seeks bail in connection with Sadar (Mabbi O.P.) P.S. Case No. 112/2022 registered for the offences punishable under Sections 30(a), 36, 41(i) of the Bihar Prohibition and Excise Act,(Amended), 2018.

As per prosecution case, 2223 litre foreign liquor was recovered from container in question and co-accused Rashid Kumar @ Rashid was apprehended on spot. It is further alleged that apprehended co-accused disclosed the name of petitioner and others who were involved in a syndicate of illicit liquor.



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 petitioner is neither owner nor driver of the container in question and he has no knowledge about the illicit liquor kept in the said vehicle. Petitioner was not apprehended on spot. The name of petitioner has transpired in the present case on account of confessional statement of co-accused Rashid Ahmad @ Rashid. Except confessional statement of co-accused, there is nothing on record to connect the present petitioner with the alleged occurrence. Basically no incriminating article has been recovered from conscious possession of the petitioner. Seizure list has not been made as per law. Petitioner is in custody since 11.09.2023. Learned counsel orally submits that chargesheet has already been submitted and there is no likelihood of tampering with the prosecution evidence. Petitioner bears thirteen criminal antecedents as he has been falsely implicated in one case after another in a similar manner without any basis.

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, petitioner was not apprehended on spot, 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 1st (Excise Act), Darbhanga in connection with Sadar (Mabbi O.P.) P.S. Case No. 112/2022 , 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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