

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3803 of 2024

Arising Out of PS. Case No.-371 Year-2023 Thana- PHULWARIYA District- Gopalganj

Rajeshwar Rai S/O LATE SHIV PRASAD RAI VILLAGE- BANGARI, PS.
GARKHA, DIST. SARAN (CHHAPRA).

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Aadesh Raj Singh, Adv.

For the Opposite Party/s : Mr.Satyendra Prasad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 01-02-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner seeks bail in connection with Phulwariya P.S. Case No. 371 of 2023 registered for the offences punishable under Sections 414 and 420 of the I.P.C. and Sections 47/48 and 52 of the Bihar Prohibition and Excise Act, 2018.

3. As per prosecution case, there is alleged recovery of 120 pieces of 1 litre quantity and 81 pieces of 500 ML quantity of plastic water bottles of UP Life Packaged Drinking Water from Pick-up van in question which was being driven by the petitioner and he was apprehended on the spot alongwith others. Further, petitioner disclosed that on earlier occasions, he engaged in carrying illicit liquor from Uttar



Pradesh by hiding the same in the said pick-up van alongwith other.

4. Learned counsel for the petitioner submits that petitioner is not the owner of the said pick-up van in question. Being a driver, he has to follow the instruction of the owner to earn the livelihood. Petitioner is in custody since 20.10.2023 and bears no criminal antecedent. No incriminating article has been recovered from the possession of the petitioner. 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. Co-accused Md. Irfan @ Irfain Saif has already been granted bail by this Court vide Cr. Misc. No. 84823 of 2023 and on the principle of parity, the petitioner also deserves bail.

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, 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 A.D.J. II -cum- Special Judge Excise Court No. I, Gopalganj in connection with Phulwaria P.S. Case No. 371 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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