

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3112 of 2024

Arising Out of PS. Case No.-35 Year-2023 Thana- PHULWARIA District- Begusarai

Vimal Kumar S/O- Late Ranjan Mahto R/O- Vill.- Baro Rampur Tola, Ward
No. -10, PS.- Phulwaria, Dist.- Begusarai.

... .. Petitioner/s

Versus

The State of Bihar BIHAR, PATNA

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shashank Shekhar

For the Opposite Party/s : Mr.Syed Mojibur Rahman

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 31-01-2024 Heard learned counsel for the petitioner and
learned A.P.P. for the State.

2. The petitioner seeks bail in connection with
Phulwaria P.S. Case No. 35/2023 registered for the offences
punishable under Section 30(a) of the Bihar Prohibition and
Excise (Amendment Act), 2018.

3. As per prosecution case, there was alleged
recovery of 588.240 liters foreign liquor from Tata 407 vehicle
and apprehended co-accused Gautam Kumar disclosed that the
illicit liquor was being brought at behest of the petitioner and
others for sale. It is further alleged that 1965 liters foreign liquor
was also recovered from Anganbadi Kendra.

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



case. Except confessional statement of co-accused Gautam Kumar, there is nothing on record to demonstrate the complicity of the present petitioner with the alleged occurrence. The petitioner is not apprehended on the spot and nothing has been recovered from the conscious possession of the petitioner. The petitioner is languishing in custody since 10.12.2023 and bears no criminal antecedent. He further submits that the petitioner was neither owner of the said vehicle nor was concerned with the seized liquor. He further submits that the seizure list has not been prepared as per the law. He further submits that on similar and identical allegation, co-accused Sachin Kumar and Amit Kumar have already been granted bail by the co-ordinate Bench of this Court vide Cr. Misc. No.55198/2023 and on the principle of parity the petitioner also deserves same treatment.

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

6. Considering the facts and circumstances of the case, period of custody, petitioner is not apprehended on the spot, co-accused persons have already been granted bail, 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 bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge, Excise-1st, Begusarai in connection with Phulwaria P.S. Case No. 35/2023, 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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