IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4723 of 2025

Arising Out of PS. Case No.-53 Year-2021 Thana- MEHSI District- East Champaran

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Lalit Kumar Sah Son of Late Shambhu Prasad Sah village- having its office at 47/1A, SN Roy Road, Ps- New Alipore Dist- Kolkata West Bengal and Proprietor of M/S- Prakash goods Carrier and Company

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

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Appearance :

For the Petitioner	:	Mr. Satyabir Bharti, Sr. Advocate Ms. Kanupriya, Advocate Mr. Abhishek Anand, Advocate
For the State	:	Dr. Kumar Uday Pratap, APP

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH

ORAL ORDER

2 25-02-2025 Heard learned counsels for the parties.

2. The petitioner apprehends his arrest in a case registered for the offence punishable under Sections 406, 420, 486 and 487 of the Indian Penal Code and Sections 30(a)(f), 32 and 41(1) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, 35,000 litres of spirit was recovered from a truck of which this petitioner is registered owner. It is alleged that the digital lock of 3rd and 4th chambers were found broken.

4. It is submitted by learned senior counsel appearing on behalf of the petitioner that petitioner is innocent and has

falsely been implicated in this case merely on suspicion. As a matter of fact, M/s Seven Sisters Trade & Distilleries Private Limited, being a distillery engaged in the manufacture of foreign liquor in the State of Assam, obtained an import permit dated 20/22.02.2021 from the Office of the Commissioner of Excise, Assam, Guwahati, for import of 35,000 BL of Grain ENA from M/s Radico Khaitan Limited, having its distillery at Bareilly Road, Rampur, Uttar Pradesh. The import permit was valid up to 20th April, 2021 and a perusal of the import permit would reveal that Import Pass fee of ₹3,50,000 was deposited the State of Assam. On the strength of the import permit dated 20/22.2.2021 (copy of which is Annexure-P/3 to this application), the Office of the Excise Commissioner, Uttar Pradesh, Prayagraj issued an export order dated 27.02.21 (copy of which is Annexure-P/4 to this application) granting permission to Radico Khaitan Limited, Rampur District, Rampur for export of Grain ENA to Seven Sisters Trade and Distilleries Private Limited Guwahati, Assam. The order was valid till 26.3.2021. Radico Khaitan Limited issued a tax/sale invoice dated 05.03.2021 (copy of which is Annexure-P/5 to this application) for sale of 35,000 bulk litres of Grain ENA to Seven Sisters Trade and Distilleries Private Limited, for a total invoice value of Rs. 17,50,611.98. Bare perusal of the tax invoice would reveal that it mentions the number and date of the import permit and the export permit as also the period of validity of the said permits. The Uttar Pradesh Excise Department also issued a pass dated 05.03.2021 (copy of which is Annexure-P/6 to this application), for the removal of spirit which mentions in detail the name of the consigner and the consignee, the description of spirit that is Grain ENA, permit number, permit date, the duty which has been paid, the vehicle number, the route through which the vehicle has to cross starting from the distillery of Radico Khaitan Limited to the distillery of Seven Sisters Trade and Distilleries Private Limited, the strength of the consignment of spirit and the quantity of spirit contained in each of the 7 chambers of the tanker which was engaged for transport of Grain ENA. Bare perusal of the pass, which was issued in form PD25 would reveal that it mentions that the pass is to be verified and returned immediately and the supply was permitted to be under bond for removal to Seven Sisters Trade and Distilleries Private Limited, Guwahati, Assam and return after verification. As stated above, the pass mentions the route through which the consignment of Grain ENA was to be transported and as per the route detail, it enters the State of

Bihar through Gopalganj district. Therefore, a digital lock was affixed on the tanker by the agency hired by the Prohibition Department, Government of Bihar namely MSD Telematics Private Limited on 08.03.2022 at 10:00 AM, in the morning and a receipt was issued which bears the entry check post and exit check post as also the vehicle number and the E lock number. After affixation of the digital lock on the vehicle, it moved ahead and crossed the district of Gopalganj and entered the district of East Champaran and after it had entered the district of East Champaran and was moving ahead, at around 11:30 PM on 8.03.2021 (within 1 ½ hours of the vehicle having entered the State of Bihar), it was intercepted by the Police at Mehsi and the police officials despite having been shown all the requisite statutory permits, pass as also the digital lock receipt, for reasons best known to them, the vehicle was seized and Mehsi PS Case No. 53/2021 dated 08.03.2021 was instituted under Sections 406, 420, 486 and 487 of I.P.C. and Sections 30(a)(f), 32 and 41(1) of the Bihar Prohibition And Excise Act, 2018, by the officer in charge of Mehsi Police Station, alleging that he along with other police personnel intercepted the tanker in question which was going from Motahari to Muzaffarpur and on search of the tanker, the lock of the 3rd and 4th chamber was found broken and the digital lock appeared to have been tampered. It is pertinent to mention here that the entire consignment of GRAIN ENA kept in all that 7 chambers was found to be intact and not even one litre was short as would be manifest from the perusal of the seizure list attached with the F.I.R.. Petitioner has falsely been implicated in this case merely because he happens to be owner of the tanker in question. Petitioner claims clean antecedents.

5. Learned A.P.P. for the State has vehemently opposed the prayer for grant of anticipatory bail to the petitioner.

6. Considering the aforesaid facts and circumstances, nature of accusation, material available on record and clean antecedents of the petitioner, the prayer for grant of anticipatory bail to the petitioner is allowed.

7. Accordingly, in the event of arrest/surrender within a period of eight weeks from today, let the above named petitioner be enlarged on bail on furnishing bail-bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Court of Exclusive Special Excise Court No. 3, East Champaran at Motihari in connection with Mehsi P.S. Case No. 53 of 2021, subject to condition as

laid down under Section 482 of the B.N.S.S..

(Prabhat Kumar Singh, J)

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