

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51539 of 2024

Arising Out of PS. Case No.-1093 Year-2023 Thana- SONEPUR District- Saran

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Jitendra Kumar Rathaur, aged about 40 years, Male, Son of Dadan Rathaur,
Resident of Village Pachrukhiya Kala, Koilwar, P.S. Koilwar District-
Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ganesh Prasad Singh, Advocate

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

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**CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA**

ORAL ORDER

4 21-02-2025 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner apprehends his arrest in connection
with Sonapur P.S. Case No. 1093 of 2023 instituted for the
offences punishable under Sections 30(a), 32, 36 and 47 of the
Bihar Prohibition and Excise Act and Sections 188, 420, 120(B)
and 34 of the Indian Penal Code.

3. As per the prosecution case, total 696.81 liters
English Wine has been recovered from a truck bearing
Registration No. UP-64H-3767.

4. Learned counsel for the petitioner submits that the
petitioner is innocent and has committed no offence and has



falsely been implicated in this case. He further submits that petitioner is not named in the FIR and his name surfaced in this case only on the basis of information given by co-accused Anil Rai that petitioner is the driver of the said truck. He next submits that nothing has been recovered from the conscious possession of the petitioner. Petitioner has not present at the spot and police has falsely implicated the petitioner during course of investigation with an allegation that petitioner was the driver of the truck. He lastly submits that petitioner has no any connection with the named co-accused persons. Petitioner has got clean antecedent as stated in para 3 of the petition.

5. Learned APP opposes the prayer for bail.

6. From perusal of the FIR, case diary and the impugned order of the learned 2nd Exclusive Special Excise Judge, Saran at Chapra dated 09.05.2024, it appears that petitioner is not named in the FIR. On perusal of the records, it also appears that on the basis of self statement of the police sub-inspector Amit Kumar Ram, FIR has been registered under Sections 30(a), 32, 36 and 47 of the Bihar Prohibition and Excise Act and Sections 188, 420, 120(B) and 34 of the Indian Penal Code against five accused persons including the truck bearing Registration No. UP-64H-3767. It also appears that the



petitioner is not the registered owner of the said vehicle. From perusal of the supplementary case diary, the name of the petitioner has been surfaced in para 43 as mentioned that some persons present at the house of the registered owner stated about the present petitioner, who is the driver of the truck. From perusal of the entire case diary no witness has been examined regarding the driver of the said truck bearing Registration No. UP-64H-3767 and the petitioner is clearly denied that he is the driver of the seized truck. Other co-accused persons namely Dilip Kumar, Premdhar Kumar @ Suraj Kumar and Anil Rai have been granted anticipatory bail by a co-ordinate Benches of this Court in Cr. Misc. Nos. 21289 of 2024, 24301 of 2024 and 29671 of 2024 vide orders dated 28.03.2024, 03.04.2024 and 20.04.2024 respectively, so considering all these aspects of the matter, let the petitioner above named in the event of his arrest or surrender before the Court below within six weeks from today, be released on anticipatory bail upon furnishing bail bonds of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, Excise Court No. 2, Saran at Chapra in connection with Sonpur P.S. Case No. 1093 of 2023, subject to the conditions laid down in Section 438(2) of the Cr.P.C. with a further



condition that petitioner shall remain present on each and every date before the Investigating Officer as also before the trial Court till conclusion of the trial.

(Ramesh Chand Malviya, J)

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