

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.90115 of 2024

Arising Out of PS. Case No.-21 Year-2024 Thana- Haraiya District- East Champaran

Rakesh Kumar Gupta son of Bacha Sah Resident of village - Banwariya, Ps-
Timkohi, Dist- Khushi Nagar, Up

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Abhishek Kumar, Adv.

For the Opposite Party/s : Mr.Shyam Bihari Singh, APP

**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

3 29-01-2025 Heard learned counsel for the petitioner and learned
APP for the State. Perused the case diary called for in Cr. Misc.
No. 88233 of 2024.

2. The petitioner seeks bail in connection with Haraiya
P.S. Case No. 21 of 2024 instituted for the offences under
Sections 318(4), 338, 336(3), 340(2) and 61(2) of the B.N.S.
and Sections 30(a), 41(1), 31, 33, 38 and 47 of the Bihar
Prohibition and Excise Act.

3. As per prosecution case, the police has recovered
total 4,000 liters spirit from the godown of the I P Road Lines
India Pvt. Ltd. It is alleged that the co-accused Awadhesh
Kumar Srivastava was arrested on spot.



4. Learned counsel for the petitioners submits that the petitioner is innocent and has committed no offence as alleged against them and has falsely been implicated in the present case due to police mechanism and maneuvering at the instance of his enemies. The petitioner is not named in the F.I.R. and his name has surfaced in this case on the basis of the confessional statement of the co-accused person namely Murat Sah. The petitioner is not the owner of the said I.P. Road Line godown. He has also no concern with the alleged godown and spirit. The petitioner was also not seen at the place of occurrence. He further submits that nothing incriminating has been recovered from the conscious or unconscious possession of the petitioner. There is no specific allegation against the petitioner. The petitioner has also no relation with the other co-accused persons. There is a non-compliance of Section 103 of the B.N.S.S. which creates a serious doubt in the prosecution case. The petitioner has five criminal antecedents and is languishing in judicial custody since 01.11.2024 without any rhymes or reason.

5. On the other hand, learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner stating that the petitioner in collusion with each other used to bring the spirit for supply in large scale for preparation of liquor.



He further submits that in Para-37 of the case diary, the co-accused namely Murat Sah has confessed his own involvement as well as of petitioners in transportation and supply of spirit, which is used in preparation of liquor. In Para-54, there is also a confessional statement of the co-accused Rakesh Kumar Gupta who has also confessed his involvement in transportation and supply of spirit. He further submits that the petitioner has five criminal antecedents.

6. Having heard rival contention of both the parties and considering the entire facts and circumstances of the case as also taking into account the period of custody of the petitioner, let the petitioner, abovenamed, be released on bail, ***after framing of charge if not already framed***, on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Haraiya P.S. Case No. 21 of 2024, subject to the following conditions;

(i) One of the bailor(s) shall be the own/close family members of the petitioner.

(ii) The petitioner shall cooperate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the



Court and in the event of failure on two consecutive dates without sufficient reasons, his bail bond shall be liable to be cancelled by the court below.

(Rudra Prakash Mishra, J)

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