

# Pankaj Sah vs The State Of Bihar on 7 October, 2024

**Author: Alok Kumar Pandey**

**Bench: Alok Kumar Pandey**

IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL MISCELLANEOUS No.70750 of 2024  
Arising Out of PS. Case No.-630 Year-2024 Thana- Excise P.S. District-  
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Pankaj Sah S/o Moti sah R/o Village- Dahaur, PS- Dehri, District- Rohta

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :	
For the Petitioner/s :	Mr.Aquaib Khan, Adv.
For the Opposite Party/s :	Mr.Ahmad Ali, APP

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY  
ORAL ORDER

2 07-10-2024

Heard learned counsel for the petitioner and learned A.P.P. for the State.

2. Learned A.P.P. for the State submits that the F.I.R. in connection with Excise (Bhabhua Kaimur) P.S. Case No. 630 of 2024 for the alleged occurrence has been registered on 08.08.2024 under the provision of Section 154 of Cr.P.C. whereas the Bhartiya Nagarik Suraksha Sanhita, 2023 has already come into force w.e.f. 01.07.2024.

3. In the light of the aforesaid fact, let a report be called for from the Superintendent of Police, Kaimur at Bhabhua as to why the F.I.R. in the aforesaid case has not been registered under the relevant provision of the Bhartiya Nagarik Suraksha Sanhita, 2023 as the same has come into force w.e.f. 01.07.2024. The aforesaid report must reach to this court within Patna High Court CR. MISC. No.70750 of 2024(2) dt.07-10-2024 a period of two weeks.

4. Learned counsel for the petitioner submits that the concerned police official has wrongly applied the provision of law for instituting the F.I.R. On that count, the petitioner cannot be allowed to suffer as liberty of petitioner is paramount. He further submits that while rejecting the prayer for bail of the petitioner, the concerned jurisdictional court has not taken into account the aspect of institution of F.I.R. wrongly under the old provision of Section 154 of Cr.P.C. despite the fact that the Bhartiya Nagarik Suraksha Sanhita, 2023 came into force w.e.f. 01.07.2024.

5. The petitioner seeks bail in connection with Excise (Bhabhua Kaimur) P.S. Case No. 630 of 2024 registered for the offences punishable under Sections 30(a), 32(1) (3) & 41 (1) (2) of the Bihar Prohibition and Excise (Amendment) Act 2018 and 2022.

6. As per prosecution case, 207 liters illicit liquor was recovered from the tempo in question and petitioner was apprehended on the spot.

7. Learned counsel for the petitioner submits that petitioner is quite innocent and has not committed any offence as alleged in the first information report. Learned counsel orally Patna High Court CR. MISC. No.70750 of 2024(2) dt.07-10-2024 submits that petitioner is not the owner of the vehicle in question, rather he is merely a driver and he has to follow the instruction of his owner to earn the livelihood. Petitioner had no knowledge regarding the illicit liquor kept in the vehicle in question. Petitioner is in custody since 08.08.2024. Petitioner has criminal antecedent of one case in which he is on bail.

8. The learned A.P.P. for the State opposes the prayer for bail of the petitioner.

9. Considering the facts and circumstances of the case, period of custody, argument advanced on behalf of both sides and the material available on record, let the petitioner above named be released on provisional bail till further orders on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of Special Judge, Excise II, Kaimur, Bhabhua in connection with Excise (Bhabhua Kaimur) P.S. Case No. 630 of 2024, 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 Patna High Court CR. MISC. No.70750 of 2024(2) dt.07-10-2024 dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the petitioner tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

10. Re-list this matter on 25.10.2024.

(Alok Kumar Pandey, J) mcverma/-

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