

# Dhanraj Kumar @ Dhanraaj Kumar 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.70103 of 2024

Arising Out of PS. Case No.-262 Year-2024 Thana- Excise P.S. Dist

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Dhanraj Kumar @ Dhanraaj Kumar Son of Kamta Chaudhary Resident of  
Village -Jagarnath Tola, PS- Nokha, District- Rohtas

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Siddharth Harsh, 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 P.S. Case No. 262 of 2024 for the alleged occurrence has been registered on 24.07.2024 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, Rohtas at Sasaram 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.70103 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 P.S. Case No. 262 of 2024 registered for the offences punishable under Sections 30(a) of the Bihar Prohibition and Excise Act.

6. As per prosecution case, 270 liters country made liquor was recovered from the trolley of the tractor in question which was being driven by the petitioner and he 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.70103 of 2024(2) dt.07-10-2024 submits that petitioner is not owner of the vehicle in question and he is not in any way connected with the seized liquor. Seizure list has not been made as per law. Petitioner is in custody since 25.07.2024. Petitioner has criminal antecedent of one case which is not similar to the present 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 Exclusive Special Judge, Excise 1, Rohtas at Sasaram in connection with Excise P.S. Case No. 262 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.70103 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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