

# Ram Janam Dharhi @ Ram Janam Ram 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.70481 of 2024

Arising Out of PS. Case No.-81 Year-2024 Thana- SARE District-

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Ram Janam Dharhi @ Ram Janam Ram Son of Late Arjun Dharhi Resident of Village - Onda, P.S.- Sare, District - Nalanda.

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Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Satya Prakash, Advocate

For the Opposite Party/s : Mr.Indu Kumari Srivastava, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY

ORAL ORDER

2 07-10-2024

Learned A.P.P. for the State submits that the F.I.R. in connection with Sare P.S. Case No. 81 of 2024 for the alleged occurrence has been registered on 11.08.2024 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.

2. In the light of the aforesaid fact, let a report be called for from the Superintendent of Police, Biharsharif 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 Patna High Court CR. MISC. No.70481 of 2024(2) dt.07-10-2024 this court within a period of two weeks.

3. 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 wrongly institution of F.I.R. 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.

4. The petitioner seeks bail in connection with Sare P.S. Case No. 81 of 2024 registered for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

5. As per prosecution case, altogether 75 litre country made chulai liquor was recovered from two motorcycles in question. Local people and local chaukidar disclosed the name of petitioner and others who fled away from the place of occurrence.

6. Learned counsel for the petitioner submits that Patna High Court CR. MISC. No.70481 of 2024(2) dt.07-10-2024 petitioner is in custody since 23.08.2024 and bears criminal antecedent of eight cases out of which petitioner is on bail in seven cases. He further submits that petitioner has been roped in one case after another in a routine manner. Petitioner is quite innocent and has committed no offence as alleged against him in F.I.R. and he has falsely been implicated in the present case. No incriminating article has been recovered from the conscious possession of the petitioner.

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

8. Considering the facts and circumstances of the case, period of custody, argument advanced on behalf of both sides and also taking into consideration the material available on record, let the petitioner above named be released on provisional bail until further orders, on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned IVth Additional District and Sessions Judge cum Special Judge, Excise - IInd, Nalanda at Bihar Sharif in connection with Sare P.S. Case No. 81 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 Patna High Court CR. MISC. No.70481 of 2024(2) dt.07-10-2024 the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

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

9. Re-list this matter on 21.10.2024.

(Alok Kumar Pandey, J) alok/-

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