

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84205 of 2019

Arising Out of PS. Case No.-423 Year-2019 Thana- BRAHMPUR District- Buxar

BIRENDRA KUMAR Son of Bateshwar Prasad @ Vatesar Kevat Resident of
Village - Noniyapura, P.S.- Brahmpur (Krishna Brahm), Dist.- Buxar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anil Kumar Singh, Adv.
For the Opposite Party/s : Mr. S.D. Yadav, AAG-9

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL ORDER

2 18-12-2019 Instant petition under Sections 439 and 440 of Criminal Procedure Code has been moved for grant of bail in F.I.R. No. 423 of 2019, dated 28.9.2019, registered at Police Station Brahmpur (Krishna Brahm), under Section 30(a) of the Bihar Prohibition & Excise (Amendment) Act, 2018.

I have heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State. I have also perused the relevant record of the case, necessary for adjudication of this petition.

Allegedly, 19.200 m.l. of illicit country made liquor was recovered from one bag out of two, which fact is seriously disputed by the petitioner. Prima facie also it appears that thus far no case against the petitioner is made out indicating his complicity in the alleged crime. Recovery is from an area



accessible to general public. Planting of the substance has not been ruled out by the prosecution.

Prima facie, nothing is produced to highlight petitioner's direct involvement in the crime.

It is submitted by learned counsel for the petitioner that the petitioner has roots in the society; is not likely to interfere in the investigation or influence any of the witnesses or destroy the evidence; is behind bars since 29.9.2019; no further recovery is to be made from the petitioner, nor any custodial interrogation is required and he has fully cooperated in the investigation.

Keeping in view the provision of the special enactment i.e. Bihar Prohibition and Excise Act, 2016, this Court is of the considered view that petitioner has made out a case for grant of bail. Possibility of false implication, as is so alleged by the petitioner, cannot be ruled out. Also, thus far save and except for naming the petitioner in the F.I.R., no evidence corroborative in nature stands recorded by the police. Also, none has come forward to highlight the possible involvement of the petitioner in the crime. On what basis the Investigating Officer could link the accused to the crime is also not emanating from the record.



Be that as it may, having regard to the entirety of the attending facts and circumstances of the case, let the petitioner, named above, be released on bail on furnishing bail bond of Rs. 25,000/- (Twenty five thousand) with two sureties of like amount each to the satisfaction of learned Additional District & Sessions Judge-II-cum-Special Judge, Excise, Buxar in connection with Brahmpur (Krishna Brahm) P.S. Case No. 423 of 2019 (CIS-Excise 1027/2019, on the following conditions:-

(i) That one of the bailors of the petitioner shall be his close relatives.

(ii) That the petitioner shall not indulge in any similar offence till conclusion of the trial.

(iii) That the petitioner shall remain physically present in court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reason, his bail-bonds shall be liable to be cancelled by the learned court concerned.

(iv) The petitioner shall cooperate with the investigation, if not already concluded, and make himself available as and when so required and, in case of failure, the State shall be at liberty to move for cancellation of bail.

Any observation made herein shall not be construed to



be an expression on the merits of the matter.

Petition stands disposed of in the above terms.

(Sanjay Karol, CJ)

K.C.Jha/-

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