

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 82545 of 2019

Arising Out of PS. Case No.-304 Year-2018 Thana- ITARHI District- Buxar

Kanhaiya Kushwaha aged about 23 years, Gender-Male, Son of Raj Narayan Kushwaha Resident of Village - Mahdah, P.S.- Buxar (Muffasil), District-Buxar

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Part

Appearance :

For the Petitioner/s : Mr. Satyapal Singh, Adv.

For the Opposite Party/s : Mr. Atul Chandra, APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2. 12-12-2019 Heard learned counsel for the parties.

The petitioner seeks bail in Itarhi P.S. Case No. 304 of 2018 registered for the offence under Section 30(a) of Bihar Prohibition and Excise (Amendment) Act, 2018.

It is a case of recovery of 144 liters of illicit liquor from four motorcycles and three accused persons were arrested on the spot, who disclosed the name of petitioner, as the person, who fled away from the spot.

It is submitted on behalf of petitioner that petitioner has falsely been implicated in this case and nothing has been recovered from his conscious possession. Neither the petitioner has any concern with the seized liquor nor the motorcycle in question belong to petitioner, but the petitioner was arrested only on the basis of confessional statement of co-accused. It is further submitted that mandatory provision of Section 100



Cr.P.C. has not been followed with respect to search and seizure. There is also no allegation against the petitioner of tampering with the evidence and petitioner is in custody since 25-11-2019, having no criminal antecedent.

Considering the aforesaid facts and circumstances as well as nature of accusation, let the above named petitioner be enlarged on bail on furnishing bail-bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Addl. District & Sessions Judge II cum Special Judge (Excise), Buxar in connection with Itarhi P.S. Case No. 304 of 2018 on the following conditions:

“(1) 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 on his absence on two consecutive dates without sufficient reason, his bail-bond shall be cancelled by the Court below.

(2) 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.”

(Prabhat Kumar Singh, J.)

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