

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 21172 of 2021

Arising Out of PS. Case No.-349 Year-2020 Thana- LALGANJ District- Vaishali

Shiv Mangal Rai, aged about 44 years, Gender-Male Son of Late Sukhdeo Rai, Resident of Village - Jafarabad, P.S.- Lalganj, District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vijay Anand, Advocate

For the Opposite Party/s : Mr. Md. Mushtaque Alam, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 17-11-2021 Heard Mr. Vijay Anand, learned counsel appearing on behalf of the petitioner and Mr. Md. Mushtaque Alam, learned APP appearing on behalf of the State.

Let the defect(s) be removed within two weeks of the complete start of the physical Court in normal course.

The petitioner seeks regular bail in connection with Lalganj P.S. Case No. 349 of 2020 dated 16.11.2020 registered for offence punishable under Sections 30 (a) of the Bihar Prohibition and Excise Amendment Act, 2016 as amend up to date.

The allegation against the petitioner is that the petitioner was involved in manufacturing of country made liquor and also engage in illegal trade of liquor.

Learned counsel appearing on behalf of the petitioner submits that 450 liters of country made liquor was recovered from the alleged hut of the petitioner. Learned counsel for the



petitioner submits that the FIR was lodged on 16.11.2020, while the petitioner apprehended on 03.01.2021. He further submits that due to enmity with the co-accused he has been named in the FIR. The petitioner further submits that the alleged place of recovery also do not belong to the petitioner. He has made a specific statement that neither the Khata number nor the Mauza number has been describe, where the said alleged hut was situated and seizure was made.

Learned counsel appearing on behalf of the State, submits that huge quantity of illicit liquor were recovered from the possession of the petitioner and considering the fact that in paragraph no. 3 of the petition the petitioner himself has given details of excise cases pending against him under Section 30(a) being Lalganj P.S. Case No. 229 of 2017, Lalganj P.S. Case No. 372 of 2020 and as such the petitioner is a habitual offender and he was involved in illegal trade for manufacturing of prohibited item of illicit liquor, petitioner do not deserve the privilege of bail.

Having regard to the facts and circumstances of the case and the period of custody since 03.01.2021, I am of the opinion that the petitioner be released on bail subject to the condition that any of his close relative or his responsible person



furnishes Bank Draft of Rs. 1,50,000/- in favour of Bihar State Legal Services Authority at Patna in Court below which shall be retained by the Court below to see that the petitioner does not involve in any other similar case or any case and if the Bank Draft of aforesaid amount is deposited in manner stated above then the petitioner shall be released forthwith upon furnishing bail bonds of Rs. 20,000/- (Twenty thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District and Session Judge 2nd-cum-Special Judge, Excise, Vaishali at Hajipur in connection with Lalganj P.S. Case No. 349 of 2020, subject to following conditions:

(i) That one of the bailors of the petitioner shall be his close relative. Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(ii) That the petitioner shall not indulge in any similar offence till conclusion of the trial. If the petitioner is found involved in similar nature of offences, after their release on bail the trial Court shall take steps to cancel their bail bonds.

(iii) The petitioner shall co-operate 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.

(iv) If the petitioner tempers with the evidence or the witnesses of the case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

It is made clear that if the petitioner is involved subsequently in another excise matter or in any other case then the amount of bank draft will be deposited in the account of Bihar State Legal Services Authority, Patna. If the Court below finds the conduct of the petitioner is uniformly good, then the said draft be returned back to the petitioner on such appropriate terms and conditions fixed by the Court below.

(Purnendu Singh, J.)

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