

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28452 of 2021

Arising Out of PS. Case No.-378 Year-2020 Thana- MADHUBAN District- East Champaran

BINOD KUMAR KUSHWAHA S/o- Jhingur Bhagat Resident of Village -
Barapakar, P.S. - Madhuban, District - East Champaran. Petitioner
Versus

THE STATE OF BIHAR Opposite Party

Appearance :

For the Petitioner/s : Mr. Ramakant Yadav, Advocate
For the Opposite Party/s : Mr. Md. Fahimuddin, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 25-10-2021 Learned counsel for the petitioner undertakes to remove all the defects pointed out by the Stamp Reporter within four weeks after start of normal functioning of the Court.

As prayed, learned counsel for the petitioner is permitted to make necessary correction in paragraph six of the present application.

Heard learned counsel for the petitioner and Mr. Md. Fahimuddin, learned APP for the State.

The petitioner in the present case is seeking regular bail in connection with Madhuban P.S. Case No. 378 of 2020 registered for the offences punishable under Sections 272, 273 and 420/34 of the Indian Penal Code and Section 30(a), 41 and 44 of Bihar Prohibition and Excise Act, 2016. The petitioner is in custody since 17.12.2020. He has no criminal antecedent.

Learned counsel for the petitioner submits that as per the prosecution story, the informant got secret information that the accused persons named in the FIR have brought illicit liquor from the



outside and are supplying the same to local traders through Scorpio, Bolero and motorcycle. The informant reached at the given place where on seeing the police the persons assembled there started fleeing. The informant apprehended one accused namely Dharmendra Kumar who disclosed the name of other accused persons who managed to escape. The informant recovered 198 liters of illicit liquor from the truck standing there. On the disclosure of apprehended person, the informant recovered 90 liters illicit liquor from the Bolero vehicle which were being unloaded by Binod Kumar Kushwaha (petitioner) and Santosh Kumar. The informant further searched the house of the petitioner from where recovery of illicit liquor has also been made. Further recovery of illicit liquor has been made from Scorpio vehicle.

Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. It is submitted that the petitioner has no concern with the allegedly recovered illicit liquor and the vehicles in question seized do not belong to the petitioner. The petitioner is in custody since 17.12.2020 having no criminal antecedent.

Learned APP for the State has opposed the prayer for regular bail of the petitioner.

Having regard to the facts and circumstances of the case wherein 90 liters of illicit liquor is said to have been recovered from Bolero vehicle and 234 liters of illicit liquor is said to have been



recovered from the house of the petitioner and the submission of learned counsel for the petitioner that the vehicle in question does not belong to the petitioner, the petitioner has remained in custody since 17.12.2020 having no criminal antecedents, investigation against him is complete and the trial is not likely to take place in near future, this Court directs release of the petitioner above named on bail on furnishing of bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise Act, East Champaran, Motihari in connection with Madhuban P.S. Case No. 378 of 2020, subject to the conditions as laid down under Section 437(3) Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

The application stands allowed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

