

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.8870 of 2021**

Arising Out of PS. Case No.-172 Year-2020 Thana- GAYA KOTWALI District- Gaya

MAHESH YADAV SON OF LATE VISHNU YADAV R/O MOHALLA-
GOL BAGICHA (GABRA PAR), P.S.- KOTWALI, DIST.- GAYA

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Priya Ranjan,Advocate

For the Opposite Party/s : Mrs.Dr.Indiwar Kumari,APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 04-05-2021 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.

Heard learned counsel for the petitioner and Mrs. Dr. Indiwar Kumari, learned APP for the State.

The petitioner in the present case is seeking regular bail in connection with Kotwali P.S. Case No. 172 of 2020 registered for the offences punishable under Section 30(A) of Bihar Prohibition and Excise Act, 2016.

Learned counsel for the petitioner submits that on bare perusal of the First Information Report, it would appear that this petitioner has been made accused only because he happens to be the brother of the co-accused Rajesh Yadav. In the FIR as well as the seizure list, it is categorically stated that the liquors were stored in the house of co-accused Rajesh Yadav. The seizure list witness also says



so but the petitioner has been made accused on the allegation that police had information that this petitioner is also engaged in the sale of illicit liquor with his brother.

It is further submitted that on the same date three cases were registered separately against the petitioner and in two cases this Court has already granted bail vide Cri. Misc. No. 2609 of 2021 and Cr. Misc. No. 3975 of 2021. It is, thus, submitted that the case being that of a false implication and the petitioner is in custody since 13.10.2020, his further incarceration is not likely to come in aid of investigation or the prosecution.

Learned APP for the State has opposed the prayer for regular bail of the petitioner but considering the facts and circumstances of the case wherein the FIR and the seizure list both show recovery from the house of co-accused Rajesh Yadav and the name of the petitioner having been brought in this case being brother of the co-accused Rajesh Yadav, the seizure list witnesses are the members of the raiding party, the petitioner has remained in jail for over six months and in other two cases he has already been granted bail by this Court, this Court directs release of the petitioner 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, Gaya, in connection with Kotwali P.S. Case No. 172 of 2020, subject to the conditions as laid down under Section 437(3) Cr.P.C. as under:



(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which is suspected, and

(c) that such persons shall not directly or indirectly make and inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

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'.

