

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3172 of 2022

Arising Out of PS. Case No.-477 Year-2021 Thana- DUMRAO District- Buxar

NANDJI YADAV S/O LATE THAKUR PRASAD RESIDENT OF VILLAGE- NIYAZI PUR, P.S.- SIMARI, DISTRICT- BUXAR (BIHAR), AT PRESENT VILLAGE- MAHARAJA KOTHI KE SAMANE DACHHIR BHERIYA HATA, NAYA BHOJPUR, P.S.- DUMRAON (NAYA BHOJPUR O.P.) DISTRICT- BUXAR.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dineshwar Mishra

For the Opposite Party/s : Mr.Mritunjay Kumar Nirala

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 20-06-2022 Heard learned counsel for the petitioner and the State.

Petitioner seeks regular bail in a case registered for the offence punishable under section 30(a) (d) of the Bihar Prohibition and Excise Amendment Act.

Allegedly, from the possession of this petitioner, 41 liters of English wine along with 228 empty bottles was recovered and some co-accused persons were also arrested at the spot.

The main submissions advanced by the learned counsel for the petitioner are that there is criminal antecedent of one case against the petitioner which was lodged for the offence



under the Indian Penal Code in which petitioner is on bail. At the place of recovery, petitioner was not present as it relates to open place and the said recovery was made behind the pond of the petitioner and said pond was taken by this petitioner on license for fishing purpose and petitioner's presence at place of recovery was only for his legal business and not for illicit liquor and moreover, petitioner has been languishing in jail since 18.11.2021 and he is a farmer.

Learned APP opposes the prayer for bail.

Having considered the above submissions, petitioner's custody period and alleged wine is said to have not been recovered from the possession of the petitioner, in my view, lenient approach may be taken in respect of the petitioner. Let the petitioner be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Additional Sessions Judge II-cum-Special Judge, Excise, Buxar in Dumraon (N.B.O.P) Police Station Case No. 477 of 2021 on the following conditions:-

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court below and shall remain physically present as directed by the Court below and on his/her absence on two consecutive dates



without sufficient reason, his/her 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.

(3) One of the bailers shall be close relative of the petitioner who has sworn affidavit in this miscellaneous petition.

The court below will verify the criminal antecedent of the petitioner but acceptance of bail bond will not be delayed on account of process of verification of the said criminal antecedent. If any criminal antecedent other than of Dumraon (N.B.O.P) P.S Case No. 238 of 2018 of the petitioner is found then the court below shall take serious action against him for cancellation of his bail bond.

(Shailendra Singh, J)

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