

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9734 of 2022

Arising Out of PS. Case No.-136 Year-2018 Thana- BANIAPUR District- Saran

Kundan Sharma Son of Ram Nath Sharma Resident of Village - Dhobwal,
P.s.- Khaira, Distt.- Saran at Chapra.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vijay Kumar

For the Opposite Party/s : Mr. Renu Kumari, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 09-06-2022 Heard learned counsel appearing on behalf of the
petitioner and learned counsel appearing on behalf of the State.

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

The petitioner seeks bail in connection with
Baniyapur P.S. Case No. 136 of 2018 registered for the offence
under Section 188 of the Indian Penal Code and Sections 30(a),
38 and 41 of Bihar Prohibition and Excise Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 27.12.2021.

The accusation against the petitioner is to have
involvement with illicit foreign liquor, total of 2645.100 liters,
seized from a truck bearing Registration no. PB 11 BK 7491.
The name of the petitioner was disclosed by apprehended driver,
who is also one of the co-accused in the present case.

Learned counsel appearing on behalf of the petitioner



submitted that the name of the petitioner surfaced on the basis of confessional statement of driver of the truck, who is arrested with present consignment of illicit foreign liquor. It has further been pointed out that nothing incriminating has been recovered from the conscious possession of the petitioner and there is nothing on record which may suggest the involvement of petitioner with the recovery of foreign liquor on its face.

Learned APP appearing on behalf of the State while opposing the prayer for bail fairly conceded that recovery has not been made from the conscious possession of the accused/petitioner.

Considering the facts and circumstances as mentioned above, as name of the petitioner surfaced in this case on the basis of confessional statement of co-accused coupled with the fact that recovery has not been made from the conscious possession of the petitioner, let the petitioner, above named, is directed to be released on bail in connection with Baniyapur P.S. Case No. 136 of 2018 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned 1st Exclusive Special Judge, Excise, Saran at Chapra, subject to the following conditions:



“(i) That accused/petitioner shall not involve in the similar nature of offence till the conclusion of trial, failing the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioner.

(ii) Accused/Petitioner shall cooperate in the trial and shall be properly represented on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court only on medical ground duly supported by the documents.

(iii) That one of the bailors shall be the close relative of the accused/ petitioner like mother/father/sister/brother.”

(Chandra Shekhar Jha, J)

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