

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9674 of 2022

Arising Out of PS. Case No.-711 Year-2021 Thana- KANTI District- Muzaffarpur

Suresh Sah, Son of Late Sita Sah, R/o Village- Chhapra Manorath, P.S.-
Kanti, District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anish Kumar, Advocate

For the Opposite Party/s : Mrs. Sucheta Yadav, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 18-08-2022 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Mr. Anish Kumar, learned counsel appearing on behalf of the petitioner and the learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Kanti P.S. Case No. 711 of 2021 registered for the offences punishable under Sections 272, 273, 284, 328, 307, 302, 120(B)/34 of the Indian Penal Code and Sections 34/36/37(B) of Bihar Prohibition and Excise Act, 2016-18.

The prosecution case is based on a written report alleging therein that the informant, who happens to be the SHO of Kanti police station, received an information that on account of consumption of spurious hooch, some persons have died and



others are fell ill, whose treatments are going on. On the aforesaid information, the informant verified the fact from the family members of two of the dead persons and he came to know that all the F.I.R. named accused persons are found indulged in preparation and selling of spurious toddy/liquor, and due to consumption of which four persons died and others fell seriously ill.

Learned counsel appearing on behalf of the petitioner submits that from the F.I.R. it is evident that there is no specific allegation against any of the accused persons and save and except the allegation that all the accused persons including the petitioner was indulged in selling of spurious liquor, there is no cogent material, which suggests the complicity of the petitioner. It is next submitted that on the same day, search was made, however, during the course of search no recovery whatsoever has been made from the house of the petitioner, neither any illicit toddy/liquor nor any utensils or apparatus for preparation of liquor has been recovered. It is next submitted that even during the course of investigation, no other materials have come, which suggests the complicity of the petitioner, save and except the allegation that that the petitioner was indulged in preparation of illicit liquor. It is lastly submitted that the



petitioner is in custody since 10.11.2021 and he is found involved in a matter relating to Electricity Act.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that on account of spurious toddy/liquor, 4-5 persons died and others have seriously felt ill and the involvement of the petitioner cannot be ruled out in selling of the spurious liquor.

Having regard to the submissions made on behalf of the parties and taking into consideration the fact that nothing has been recovered from the person or possession of the petitioner nor there is any direct allegation by any of the family members of the affected persons that on account of consumption of spurious hooch, the death occurred. This Court has also taken note that the petitioner is in custody since 10.11.2021 and, moreover, the investigation of the crime is completed and charge-sheet has been submitted and there is no likelihood of commencement of trial in near future, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise Act, Muzaffarpur in connection with Kanti P.S. Case No. 711 of 2021, subject to the condition that one of the



bailors will be the close relative of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain physically present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) 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 immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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