

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14060 of 2022

Arising Out of PS. Case No.-9 Year-2021 Thana- KOCHADHAMAN District- Kishanganj

Murshid Alam son of Md. Alam @ Md. Asim, resident of Farsara, Police
Station- Dalkhola, District- Uttar Dinajpur (W.B.).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Akbar Ali, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 08-07-2022 Learned counsel for the petitioner is permitted to
remove defect(s), as pointed out by the office, if any, within a
period of four weeks from today.

Heard Mr. Subhash Kumar, learned counsel for the
petitioner as well as learned Additional Public Prosecutor for the
State.

The application for grant of bail to the petitioner,
above named, who has been made accused and put behind the
bar in connection with Special Case No. 13 of 2021 arising out
of Kochadhaman P. S. Case No. 09 of 2021 registered for the
offences punishable under Sections 30 (a), 35, 36 and 41 of the
Bihar Prohibition and Excise Act, 2016.

As per the prosecution case, it is alleged that the
Police intercepted a Mahindra Bolero Pick-Up. On search being



made 630 litres country-made foreign liquor of different companies was recovered. It is further alleged that the apprehended person disclosed the name of this petitioner as he has been indulging in preparing of foreign liquor and the recovered wine was also loaded by him.

Learned counsel appearing on behalf of the petitioner submitted that the petitioner was neither arrested at the spot nor any incriminating material has been recovered from his person or possession. It is further submitted that the name of the petitioner has been implicated in this case only because of his past criminal antecedent and save and except the confessional statement of the driver of the vehicle, there is no other material, which suggests the complicity of this petitioner. It is next submitted that the petitioner is a permanent resident of West Bengal and he was not even knowing that the person, who purchased some wine from him, had taken it to State of Bihar, where the same is prohibited. It is lastly submitted that the petitioner is in custody since 19.01.2022.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that the petitioner has been found involved in five other similar nature of cases and his involvement has transpired during the course of



investigation.

Having considered the submissions made on behalf of the parties and taking into account the fact that the petitioner was neither arrested at the spot nor any incriminating material has been recovered from his person or possession and further, he is in custody since 19.01.2022, though the investigation of the crime is already completed and the charge-sheet has been submitted and as such, keeping the petitioner behind the bar would serve no further purpose, let the petitioner, above named, 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 Additional District and Sessions Judge-II-Special Judge (Excise), Kishanganj in connection with Special Case No. 13 of 2021 arising out of Kochadhaman P. S. Case No. 09 of 2021, subject to the condition that one of the bailors will be the local resident/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 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 step for cancelling 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.

(Harish Kumar, J)

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