

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21387 of 2022

Arising Out of PS. Case No.-163 Year-2021 Thana- BAIKUNTHPUR District- Gopalganj

BIRENDRA RAI S/o Chandrika Rai R/o village- Sonwalia, P.S.-
Baikunthpur, District- Gopalganj

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Naresh Prasad

For the Opposite Party/s : Mr.Meena Singh

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 29-07-2022 Heard learned counsel for the petitioner and learned
APP for the State through virtual court proceeding.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in connection with Baikunthpur P.S. Case No. 163 of 2021 registered for the alleged offences under Sections 30(a) and 41 of the Bihar Prohibition and Excise Amendment Act, 2018.

As per prosecution case, recovery of 5880 liters of illicit country made foreign liquor was made from a truck and the petitioner and other co-accused persons who were assembled near the truck, ran away when the police party reached at the spot.



Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. The petitioner is neither the owner nor the driver of the truck nor he was present at the place of occurrence. Nothing incriminating has been recovered from this petitioner and he has been made accused only on the basis of suspicion and on saying of persons, who are on inimical terms with the petitioner. Learned counsel further submits that similarly situated co-accused Dhanes Prasasd has been granted anticipatory bail vide order dated 07.03.2022 passed in Cr. Misc. No. 47085 of 2021 and other co-accused Shatrudhan Sah and Mantu Rai have been granted bail vide order dated 17.12.2021 passed in Cr. Misc. No. 49968 of 2021 and vide order dated 07.01.2022 passed in Cr. Misc. No. 55839 of 2021. Charge sheet has been submitted in this case and the petitioner is in custody since 16.03.2022.

Learned APP for the State opposes the prayer for bail of the petitioner submitting that huge quantity liquor has been recovered from a truck and the petitioner is a trader of illicit liquor.

Having regard to the submission made hereinabove and considering the fact that nothing incriminating has been recovered from this petitioner and absence of material to show



the connection of the petitioner with the alleged recovery except the assertion that, he was seen at the place of occurrence and fled away from there and also considering the grant of anticipatory bail/ regular bail to similarly placed co-accused persons along with the fact of submission of charge sheet as well as period of custody of the petitioner, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned 2nd Additional Sessions Judge-Cum-Special Judge(Excise), Gopalganj, in connection with Baikunthpur P.S. Case No. 163 of 2021, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions:

(i) The bail bond of the petitioner will be accepted only after framing of charge, if not already framed.

(ii) One of the bailors will be the person, who has sworn the affidavit.

(iii) The petitioner will remain present on each and every date fixed by the court below.

(iv) In case of absence on three consecutive dates or in violation of



the terms of the bail, the bail bond of
the petitioner will be liable to be
cancelled by the court concerned.

(Arun Kumar Jha, J)

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