

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28591 of 2022

Arising Out of PS. Case No.-140 Year-2021 Thana- BATHNAHA District- Sitamarhi

DIWAKAR KUMAR @ DIWAKAR SINGH Son of Ghutar Singh @ Gutar Singh @ Ram Ekwah Singh Resident of Village - Bariyarpur, P.S.- Sitamarhi, Distt.- Sitamarhi.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pramod Kumar Sinha

For the Opposite Party/s : Mr.Khurshid Anwar

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 05-08-2022 Let the defect(s), as pointed out by the office, be removed within a period of four weeks from today.

Heard learned counsel for the petitioner and learned A.P.P. for the State.

The petitioner seeks bail in connection with Bathnaha P.S. Case No. 140/2021 registered for the offences punishable under Sections 30(a), 36 of the Bihar Prohibition and Excise (Amendment) Act, 2018.

As per prosecution case, there is alleged recovery of total 3598.350 liters foreign liquor from the truck in question. During course of investigation apprehended co-accused, Sujit Kumar disclosed the name of petitioner and others who were associates in the present case.



Learned counsel for the petitioner submits that petitioner is innocent and has falsely been implicated in this case due to dirty village politics. Petitioner is not named in the FIR and nothing has been recovered from the conscious possession of the petitioner. The petitioner is languishing in custody since 28.02.2022 and bears criminal antecedent of two cases of similar nature. Charge sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence. Co-accused, Sujit Kuamr has been granted bail by the co-ordinate Bench of this Court vide Cr. Misc. No.56948/2021.

The learned A.P.P. for the State vehemently opposed the prayer for bail of the petitioner.

Considering the facts and circumstances of the case, period of custody, petitioner is not named in the FIR, charge sheet has already been submitted and also taking into consideration the material available on record, let the petitioner above named be released on bail **after framing of charge** on furnishing bail bond of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, Excise Court No.1, Sitamarhi in connection with Bathnaha P.S. Case No. 140/2021, subject to



following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) 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.

(Alok Kumar Pandey, J)

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