

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22406 of 2022

Arising Out of PS. Case No.-320 Year-2021 Thana- BARACHATTI District- Gaya

Rajesh Kumar @ Rajesh Kumar Sao @ Rajesh Sao @ Rajesh Kumar Gupta
S/o Sri Mahendra Prasad Gupta @ Mahendra Prasad Resident of Mohalla-
Choudhary Gali, Rafiganj, P.S.- Rafiganj, District- Aurangabad.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mrs. Vaishnavi Singh, Advocate
Mr. Udbhav, Advocate
For the Opposite Party/s : Mr. Raj Ballabh Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 15-07-2022 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 Mrs. Vaishnavi Singh, learned counsel for the
petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in
connection with Barachatti P.S. Case No. 320 of 2021 for the
offences punishable under Section 30(a) of the Bihar Prohibition
and Excise (Amendment) Act, 2018.

As per prosecution case, it is alleged that on a secret
information, the police apprehended three persons, who were
coming from Ford Car and the driver of the said car disclosed
that he is scotted a container, which is coming behind the said



car. On the statement of the co-accused, the police intercepted the container and on search being made total 6000 litres of foreign liquor has been recovered.

It is submitted by the learned counsel appearing on behalf of the petitioner that the petitioner was neither arrested at the spot nor any incriminating material has been recovered from the person or possession of this petitioner. It is further submitted that petitioner being owner of the Ford Car, which was being intercepted and seized by the police, his name has been implicated, though the fact is that the said car was given to his nephew Monu Kumar for his personal use and later on apprehended by the police. It is also submitted that there are various irregularities in the preparation of the seizure list and moreover there is no independent witness to the same. It is next submitted that co-accused persons, who were apprehended at the spot, they have already been granted bail by the learned co-ordinate Bench of this Court passed in Cr. Misc. No. 43381 of 2021 vide order dated 15.02.2022. It is lastly submitted that the petitioner is in custody since 15.02.2022 and the investigation of the crime is already completed.

On the other hand, learned APP for the State opposes the bail application and submits that the petitioner carries



multiple criminal antecedents, as has been disclosed in para 3 of this petition. In response to the aforesaid submission, learned counsel for the petitioner submits that the petitioner is on bail in all the cases.

Having considered the submissions made on behalf of the parties and taking into consideration the fact that except the material that the petitioner being the owner of the car, which was apprehended by the police, no incriminating material has been recovered from the said car or possession of this petitioner and moreover this petitioner is in custody since 15.02.2022 and the investigation of the crime is already completed and the charge-sheet has been submitted in this case and there is no likelihood of commencement of the trial in near future, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Excise Judge, Court No.2, Gaya in connection with Barachatti P.S. Case No. 320 of 2021 (Excise G.R. No. 950 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 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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