

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23352 of 2022

Arising Out of PS. Case No.-200 Year-2021 Thana- PHULWARIYA District- Gopalganj

Nagendra Yadav Son Of Bairister Yadav @ Bayristaor Yadav R/O Village-
Majirawa Kala, Tola- Ghuthnaha, P.S.- Fulwariya, District- Gopalganj

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anirudh Kumar Verma, Advocate.

For the Opposite Party/s : Mr. Suresh Prasad Singh, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 22-07-2022 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. Anirudh Kumar Verma, learned counsel for the petitioner as well as learned Additional Public Prosecutor for the State through video conference.

The application for grant of bail to the petitioner, above named, who has been made accused and put behind the bar in connection with Fulwariya P. S. Case No. 200 of 2021 registered for the offences punishable under Sections 30 (a) of the Bihar Prohibition and Excise Amendment Act, 2018.

As per the prosecution case, it is alleged that the police in course of patrolling duty saw two persons riding on a motorcycle and when they tried to intercept them, the persons



fled away leaving their motorcycle. On search being made 32 litres country-made wine was recovered.

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 the person or possession of this petitioner, however he is allegedly identified by the Choukidar and the local persons, who disclosed the name of the petitioner. It is further submitted that save and except suspicion, there is no other material, which suggests the complicity of the petitioner and in fact, only on account of the past criminal antecedent, his name has been implicated in this case.

On the other hand, learned APP for the State opposes the bail application and submits that the petitioner has multiple criminal antecedent of more than thirteen cases.

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 save and except disclosure made by the Chaukidar and the local persons, there is no other material against the petitioner, which suggest the complicity of the petitioner in the present case and only



because of the past criminal antecedent, he cannot put behind the bar, apart from that the investigation of the crime is completed and the charge-sheet has been submitted and there is no likelihood of commencement of trial in near future, let the petitioner, above named, 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 Additional District and Sessions Judge-II-cum-Special Judge, Excise Court No. 1, Gopalganj in connection with Fulwariya P. S. Case No. 200 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 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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