

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24717 of 2022

Arising Out of PS. Case No.-357 Year-2019 Thana- SARAI District- Vaishali

NIRAJ KUMAR S/o Late Bindeshwar Rai @ Viseshwar Ray R/o village-
Madhopur, P.S.- Mahua, District- Vaishali

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pratima Kumari

For the Opposite Party/s : Mr.Manoj Kumar

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 16-08-2022 Heard learned counsel for the petitioner and learned APP
for the State.

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 Sarai P.S. Case No. 357 of 2019 registered for the alleged offences under Sections 30(a)/32(ii)/35(a)/38(i) and 41(i) of the Bihar Prohibition and Excise Act, 2018 and under Sections 414 and 34 of the Indian Penal Code.

As per prosecution case, 1200 liters of illicit India made foreign liquor was recovered from a truck and pick-up-van. Two co-accused persons were apprehended from the spot. They disclosed the names of the petitioner and other co-accused persons who have brought the illicit liquor for selling and who escaped from the spot



after seeing the police.

Learned counsel for the petitioner submits that petitioner has been falsely implicated in this case. He was not apprehended from the spot and nothing incriminating has been recovered from his possession. The name of the petitioner came up on the basis of confessional statement of the co-accused persons Ranjay Kumar and Ravindra Kumar and these co-accused persons have been granted bail by a Coordinate Bench in Cr. Misc. No. 86149 of 2019 and 83417 of 2019, respectively. Similarly placed co-accused Raju Kumar has been granted anticipatory bail in Cr. Misc. No. 10766 of 2020 by another Coordinate Bench. The petitioner is neither the owner nor the driver of the seized vehicle. Even the identity of the person named in the confessional statement is not clear as the name of the father of the petitioner is not given in the FIR. 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.

Having regard to the submissions made hereinabove and considering the fact that petitioner was not apprehended from the spot and no recovery has been shown from him and also considering the submission of charge sheet along with 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 Special Judge, Excise Court, Vaishali at Hajipur in connection with Sarai P.S. Case No. 357 of 2019, 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 a close relative of the petitioner.
- (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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