

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26228 of 2022

Arising Out of PS. Case No.-252 Year-2021 Thana- KADWA District- Katihar

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1. Samar Kumar Ghosh @ Samar Ghosh S/o Sukumar Ghosh Resident of Village- Islampur Ramkrishnapuri, P.O. and P.S.- Islampur, District- Uttar Dinajpur, West Bengal.
 2. Lal Babu Kumar @ Lalu S/o Ram Naresh Ray Resident of Village- Kharika, Pakhnaha, P.O. and P.S.- Minapur, District- Muzaffarpur, Bihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Santosh Kumar
For the Opposite Party/s : Mr. Nitya Nand Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 23-06-2022 Heard learned counsel appearing on behalf of the
petitioners and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioners seek bail in connection with Kadwa
P.S. Case No. 252 of 2021 registered for the offence under
Section 30(a) of Bihar Prohibition and Excise (Amendment)
Act, 2016.

The accused/petitioners are named in the F.I.R. and
are in custody since 02.03.2022.

The allegation against the petitioner is to involve in



illegal business of foreign liquor where 2239 liters of foreign liquor was seized from a truck bearing Registration no. PB 10 DB 6899.

Learned counsel appearing on behalf of the petitioners submitted that the name of the petitioner surfaced on the basis of confessional statement of Jagjeet Singh. It has further been submitted that it is admitted position that recovery is not made from the conscious physical possession of the petitioner. While arguing over the matter, it has further been submitted that the compliance of Section 100 of Cr.P.C. has not been made in the present case and moreover, chargesheet has already been submitted in this case, as such there is no chance of tampering with the evidence. While concluding the argument, it has also been submitted that the petitioner no.1 is involved in five different cases as mentioned in paragraph no.3 of the bail petition, out of which he is on bail in three cases.

Learned APP appearing on behalf of the State while opposing the prayer for bail fairly conceded that the name of the petitioner surfaced on the basis of confessional statement of co-accused.

Considering the facts and circumstances as mentioned above, as nothing incriminating surfaced during the course of



investigation in furtherance of the confessional statement of co-accused, let the petitioners, above named, are directed to be released on bail in connection with Kadwa P.S. Case No. 252 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Exclusive Special Excise Court No.2-cum-Additional District Judge-IV, Katihar, subject to the following conditions:

“(i) That accused/petitioners shall not involve in the similar nature of offence till the conclusion of trial, failing the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioners.

(ii) Accused/Petitioners shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court only on medical ground of the petitioner, duly supported by the documents.



(ii) That one of the bailors shall be
Kalyani Ghosh, who is the mother of
petitioner no.1 and deponent of the present
bail petition.”

(Chandra Shekhar Jha, J)

Ankit/-

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