

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26711 of 2022

Arising Out of PS. Case No.-98 Year-2022 Thana- KANTI District- Muzaffarpur

Jitendra Sahni, Son of Raj Kumar Sahni Resident of Village - Charkoira, P.s.-
Kudhani (Turki O.P), Distt.- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar @ S.K., Advocate

For the Opposite Party/s : Mr. Damodar Prasad Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 06-08-2022 Heard learned counsel for the petitioner and the

learned APP for the State through virtual mode in view of

COVID-19.

Let the defect(s) be removed within four weeks of the
complete start of the physical Court in normal course.

The petitioner is in judicial custody in connection
with Kanti P.S. Case No.98/2022 instituted under Section
30(a)/32(I)(II)/36/41(I) of Bihar Prohibition & Excise Act.

As per the FIR, the informant, S.I. Sanjay Kumar,
SHO of Kudhani Police Station, has stated in his written
information that on 15-02-2022 at about 12:05 hrs., he got
knowledge through Bihar Prohibition Excise Department, Patna
that a Truck bearing Reg. No.- WB51C-3948 is parked in front
of Jamal Petrol Pump and the said Truck was waiting for liquor
trader members. He thereafter along with other police personnel



reached at the place of occurrence, saw three persons were sitting in the truck who were apprehended by the Police Force and upon query, disclosed their names as Sukhdeo Das (Driver), (2) Rakesh Kumar Rai and Jitendra Sahni. It is further stated that apprehended accused Rakesh Kumar Rai told the names of liquor traders as Ravindra Rai, Raushan Kumar, Ramesh Kumar, Ajay Kumar, Pankaj Kumar, Sudish Kumar Rai Madan Sharma, Mukesh da @ Mukesh Chaudhary, Gopal Kumar and Dilip Viswas. On search of the said truck, total 2700 liters India Made Foreign liquor was recovered and accordingly, Seizure-list prepared before the two police personnel due to non-availability of public witness.

Learned counsel for the petitioner submits that the recovery/seizure of 2700 liters from the Truck in no way can be attributed to him inasmuch as while one of the person has been alleged to be the driver, the other cleaner, nothing has been prescribed about the status about this person which clearly emphasizes the fact that the petitioner was a passerby who happen to be at the petrol pump at the wrong time and only because he had a criminal antecedent, he has been implicated in this case. He further submits that a bare perusal of the registration number of the truck would show that it belongs to



West Bengal and petitioner being a native of Bihar and nothing to do with the either the neighbouring State or he ever went that place for search of employment. He lastly submits that one of the co-accused namely Rakesh Kumar Ray has since been granted privilege of bail by a co-ordinate Bench of this Court vide Cr. Misc. No.24022 of 2022 on 20.05.2022.

Considering the facts that the charge sheet stand submitted, the petitioner is in custody since 16.02.2022 (as stated in para-10 of the bail application) and one of the co-accused has since been granted bail by a co-ordinate Bench, this Court is inclined to grant him privilege of bail.

Let the petitioner be released on bail on furnishing bail bond of Rs.10,000/-(Rupees Ten Thousand) with two sureties of the like amount each in connection with Kanti P.S. Case No.98/2022 to the satisfaction of learned Special Judge, Excise Court No.II, Muzaffarpur, subject to following conditions:

(i) one of the bailor should be the family member of the petitioner, who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial court and failure to do so for two consecutive



dates without plausible reasons will entail cancellation of his bail by the Trial court itself;

(iii) the petitioner shall appear before the concerned police station every month for next six months to mark his presence;

(iv) the petitioner shall desist from committing any criminal offence again failing which the State shall be at liberty to steps for cancellation of his bail bonds.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

Prakash Narayan /-

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