

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26974 of 2022

Arising Out of PS. Case No.-75 Year-2019 Thana- PIPRA District- East Champaran

Nishu Tiwari S/o Narmdeshwar Tiwary R/o village- Tiwari Tola, P.S.- Pipra,
District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rishikesh Ojha, Advocate.

For the Opposite Party/s : Mr. Manoj Kumar, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 03-08-2022 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. Rishikesh Ojha, learned counsel for the petitioner as well as learned Additional Public Prosecutor for the State.

A supplementary affidavit has been filed on behalf of the petitioner bringing on record the fact with regard to the criminal antecedent of the petitioner and the same is kept on record.

The application for grant of bail to the petitioner, above named, who has been made accused and put behind the bar in connection with Pipra P. S. Case No. 75 of 2019 registered for the offences punishable under Sections 272, 273



of the Indian Penal Code and Section 30 (a) of the Bihar Prohibition and Excise Act.

As per the prosecution case, it is alleged that the Police, on a secret information that this petitioner has kept huge quantity of illicit spirit, reached near the pond, noticing the Police party two persons fled away and on search, altogether 105 litres spirit and pouch for packing the hooch 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 his person or possession and moreover, the alleged recovery has been made near the pond, which is accessible to all. It is further submitted that only because of past criminal antecedent of the petitioner, his name has been implicated in this case. A supplementary affidavit has been filed bringing on record that this petitioner is named in altogether 13 cases, including the present one, however, in all the cases the name of the petitioner has come on the confessional statement of co-accused. It is next submitted that this petitioner is in custody since 25.01.2022 and save and except the suspicion there is no other material suggesting the complicity of the petitioner.

On the other hand, learned APP for the State



opposes the bail application and submits that the petitioner has multiple criminal antecedent and moreover, he is named in 13 criminal cases.

Having considered the submissions made on behalf of the parties and taking into account the fact that the alleged recovery has been made near the pond, which was not under the possession of this petitioner and moreover, he is in custody since 25.01.2022 and the investigation of the crime is already completed and the charge sheet has been submitted and there is no likelihood of commencement of trial in near future in as much as mere criminal antecedent of the petitioner cannot be a sole ground to keep the petitioner behind the bar, 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 Sessions Judge Special Excise Court No. 2, East Champaran at Motihari in connection with Pipra P. S. Case No. 75 of 2019, 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)

shakir/-

U		T	
---	--	---	--

