

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28766 of 2022**

Arising Out of PS. Case No.-79 Year-2020 Thana- GOVERNMENT OFFICIAL COMP.
District- Madhepura

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Rupak Kumar @ Nepali Son Of Arvind Yadav @ Arvind Prasad Yadav @
Arvind Kumar Yadav R/O Village- Bhirakhi, Ward No.-21, P.S. And District-
Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ashwani Kumar Tiwary, Adv
For the Opposite Party/s : Mr.Umesh Lal Verma,APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 11-08-2022 Heard learned counsel for the petitioner as well

as learned Additional Public Prosecutor for the State.

Petitioner seeks bail in a case registered in
connection with Excise Case No. 79 of 2020 for the
offences punishable under Sections 30(a) of the Bihar
Prohibition & Excise Act.

As per the prosecution case, it is alleged that the
police on secret information intercepted a Scorpio vehicle
and on search total 189 liters Indian made foreign liquor
was recovered in 21 cartoons. It is further alleged that
during interrogation, the name of the petitioner has been
disclosed by other person.



It is submitted by the learned counsel for the petitioner that he was neither arrested at the spot nor any incriminating material has been recovered from person or possession of the petitioner and only because of the past criminal antecedent, his name has been implicated in this case which shows the high handedness of the police. It is further submitted that co-accused Khagesh Kumar from whose possession the entire recovery has been made has been granted bail by a co-ordinate bench of this Court in Cr. Misc. No 7243 of 2021 vide order dated 24.06.2021. it is next submitted that the petitioner is in custody since 12.04.2022 and save and except his past criminal, there is no material which suggest the complicity of the petitioner in this case.

On the other hand, learned counsel for the State opposed the bail application of the petitioner and submits that petitioner has multiple criminal antecedent and he is found involved in ten other cases.

Having heard the rival contentions of the parties and taking into consideration the fact that nothing has been recovered from person and possession of the petitioner and



moreover, the criminal antecedent of a person cannot be a sole ground to keep him behind the bar, apart from that other co-accused from whose possession the recovery was made has been granted bail by a co-ordinate Bench of this Court, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-II cum Special Judge, Madhepura in connection with Excise Case No. 79 of 2020 subject to the condition that one of the bailors will be the close relatives 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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