

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27936 of 2022

Arising Out of PS. Case No.-236 Year-2021 Thana- RAJAOLI District- Nawada

=====

Himanshu Kumar Gupta @ Himanshu Shaw @ Himanshu Kumar S/O Shiv
Gupta @ Shiv Ram Mahuri R/O Village- Akbarpur Hat, P.S.- Akbarpur,
District- Nawada.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Ram Prawesh Kumar, Advocate

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

=====

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 05-08-2022 Let the defects, if any, be removed within four
weeks from today.

Heard learned counsel for the petitioner as well as
learned Additional Public Prosecutor for the State through
video conferencing.

Petitioner seeks bail in a case registered in
connection with Rajauli P.S. Case No. 236 of 2021 for the
offences punishable under Sections 30(a) of the Bihar
Excise (Prohibition) Amendment Act, 2016.

As per the prosecution case, it is alleged that the
police on secret information that some persons are
manufacturing illicit liquor near the bank of river, raided



the place of occurrence and on search 30 liters illicit country made liquor and other utensils and apparatus have been recovered. It is alleged that accused persons have been fled away from the place of occurrence and the name of the petitioner along with others have been disclosed by the local people.

Learned counsel for the petitioner submits that the petitioner was neither arrested at the spot nor any incriminating article has been recovered from person and possession of the petitioner. It is further submitted that save and except the disclosure made by the local people, there is no material suggesting the complicity of the petitioner in the present crime. It is next submitted that the name of the petitioner has been implicated on account of past criminal antecedent and is in custody since 29.03.2022. It is also submitted that there are other infirmities in the preparation of seizure list and the same has been prepared in complete violation of Section 100 of the Cr.P.C.

On the other hand, learned counsel for the State opposed the bail application of the petitioner and submits that petitioner has found involved in four other cases.



Having heard the rival contentions of the parties and taking into consideration the fact that petitioner was neither arrested at the spot nor any incriminating material has been recovered from persons or possession and recovery has been made from the bank of the river which is accessible to all. Moreover, petitioner is in custody since 29.03.2022 and investigation of the crime is concluded and the charge sheet has been submitted. There is no likelihood of commencement of trial in near future, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Special Judge, Excise,-II, Nawada in connection with Rajauli P.S.Case No. 236 of 2021 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)

N.K/-

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

