

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28809 of 2022

Arising Out of PS. Case No.-389 Year-2021 Thana- BARHARA District- Bhojpur

Nitesh Singh, Son of Late Kishnath Singh, Resident of Village- Dumri, P.S. -
Taraiya, District- Saran, Pin- 841424.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Surendra Kishore Thakur, Advocate

For the Opposite Party/s : Mr. Rajendra Singh, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 18-08-2022 Learned counsel for the petitioner is permitted to
remove the defect(s), as pointed out by the office, within a
period of four weeks from today.

Heard Mr. Surendra Kishore Thakur, learned counsel
appearing on behalf of the petitioner and the learned APP for the
State.

The petitioner seeks regular bail, who is in custody in
connection with Barhara P.S. Case No. 389 of 2021 registered
for the offences punishable under Sections 379, 420, 411,
120(B), 467/34 of the Indian Penal Code read with Section
30(a) of the Bihar Prohibition and Excise (Amendment) Act,
2018.

As per the prosecution case, it is alleged that the
police on a secret information that a Hywa bearing registration



no. JH 09AF 8975 is loaded with stone chips carrying illicit liquor, intercepted the Hywa and on search total 5670 litres of Indian made foreign liquor was recovered. It is further alleged that two persons, namely, Shahrukh Khan and Munna Kumar Yadav, were arrested at the spot and the apprehended accused person Munna Kumar Yadav disclosed the name of the petitioner as one of the traders involved in the business of illicit liquor.

Learned counsel appearing on behalf of the petitioner submits that the petitioner was neither arrested at the spot nor any incriminating material has been recovered. It is next submitted that save and except the disclosure made by the apprehended co-accused persons, there is no other material, which suggests the complicity of the petitioner and only because of past antecedent of the petitioner he has been implicated in this case, which shows the high handedness of the police. It is lastly submitted that the petitioner is in custody since 14.03.2022 and moreover one Shahrukh Khan, who has been apprehended at the spot, has already been granted bail in Cr. Misc. No. 61196 of 2021 vide order dated 04.02.2022.

On the other hand, learned counsel for the State vehemently opposes the bail application.



Having regard to the submissions made on behalf of the parties and considering the fact that the petitioner was neither arrested at the spot nor any incriminating material has been recovered and moreover one of the co-accused, who was apprehended at the spot, has already been granted bail by the learned coordinate Bench of this Court and the is in custody since 14.03.2022 and the investigation of the crime is completed and the charge-sheet has been submitted, let the petitioner, named above, 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 Special Judge, Excise, Bhojpur at Ara in connection with Barhara P.S. Case No. 389 of 2021, 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 physically 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 immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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