

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28373 of 2022

Arising Out of PS. Case No.-410 Year-2021 Thana- ATRI District- Gaya

UPENDRA CHOUDHARY S/o Nagina Choudhary Resident of Village-
Gehuni, P.S.- Atri, District- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sheo Kumar Prasad, Advocate.

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

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 11-08-2022 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. Sheo Kumar Prasad, learned counsel for
the petitioner as well as Mr. Satyendra Narayan Singh, learned
Additional Public Prosecutor for the State.

The application for grant of bail to the petitioner,
above named, who has been made accused and put behind the
bar in connection with Atri P. S. Case No. 410 of 2021
registered for the offences punishable under Sections 272, 273
of the Indian Penal Code and Section 30 (a) (d) of the Bihar
Prohibition and Excise Act.

As per the prosecution case, it is alleged that the
police, on a secret information that some persons are engaged in



manufacturing of illegal wine in maze field, conducted a raid. On noticing the police, three persons succeeded in fleeing away but the local Chaukidar identified the petitioner. On search, 800 litres fermented wine and other utensils and apparatus were 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 conscious or constructive possession. It is further submitted that save and except the disclosure made by the local Chaukidar, there is no other material, which suggests the complicity of the petitioner in the present case. It is next submitted that only because of the past two criminal antecedent of the petitioner, his name has been implicated in this case. It is next submitted that the petitioner is in custody since 14.12.2021 and moreover, the investigation of the crime is already completed and the charge sheet has been submitted.

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

Having considered the submissions made on behalf of the parties and taking into account the fact that the petitioner has neither arrested at the spot nor any incriminating material



has been recovered from his person or possession and moreover, he is in custody since 14.12.2022 though, 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, 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 Exclusive Special Excise Court No. 1, Gaya in connection with Atri P. S. Case No. 410 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 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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