

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28408 of 2022

Arising Out of PS. Case No.-112 Year-2022 Thana- DARBHANGA SADAR District-
Darbhanga

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Rashid Ahamad @ Rashid @ Rasheed Son Of Haqmadin @ Haqam Resident
Of Village- Dhekarawa, P.S.- Nuhoo, District- Mewat

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shankar Kumar Choudhary, Advocate
For the Opposite Party/s : Mr. Bharat Bhushan, A.P.P

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CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

2 06-08-2022 Heard learned counsel for the petitioner and Mr. Bharat Bhushan, learned A.P.P for the State through virtual Court proceedings.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from today.

The petitioner seeks bail in connection with a case registered for the offence punishable under Sections 30(a), 36, 41(i) of Bihar Prohibition and Excise Act.

Allegation is of recovery of 2223 litres of foreign liquor and 1200 pieces of Bamboo from a truck bearing Registration No. UP-21BN-6492.

Learned counsel for the petitioner submits that the petitioner is innocent and committed no offence. It is submitted



that mandatory provision of Sub-section 2 of Section 74 and Section 82 of the Bihar Prohibition and Excise Act with respect to search and seizure have not been followed. Further, it is submitted that the petitioner is a driver of the said truck and he was dropping off the articles of truck as was mentioned in the challan and cash / credit papers found in the cabin box on the instruction of the owner namely, Madan and he has no concern with the seized liquor. It is further submitted that the petitioner is in custody since 09.03.2022 and has antecedent of one case.

Learned APP opposes the prayer for bail.

Considering the aforesaid facts and circumstances as well as the fact that petitioner has got criminal antecedent of similar nature of cases, I am not inclined to grant bail to the petitioner and same is, accordingly, rejected. However, the learned court below, where the case is pending, is directed to release the petitioner on bail, **after framing of the charge**, in connection with Darbhanga Sadar P.S. Case No. 112 of 2022, in addition to subject to the following conditions:-

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.



(2) One of the bailors will be his own blood relation, preferably father, mother, brother, sister and or his wife.

(3) The bailor shall also state on affidavit that he will inform the court concerned if the petitioner is made accused in any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on ground of misuse.

(4) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Khatim Reza, J)

Gaurav Kumar/-

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