

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28432 of 2022

Arising Out of PS. Case No.-359 Year-2021 Thana- PHULWARIYA District- Gopalganj

Nagendra Yadav, Son Of Bairister Yadav @ Bayristaor Yadav, Resident Of
Village- Majirawa Kala, Tola- Ghuthnaha, P.S.- Fulwariya, District-
Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anirudh Kumar Verma, Advocate
Mr. Vyas Kumar Mishra, Advocate
For the Opposite Party/s : Mr. Sanjay Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 17-08-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in connection with Phulwariya P.S. Case No. 359 of 2021 registered for the alleged offences under Section 414 of the Indian Penal Code and Section 30(b) of the Bihar Prohibition and Excise Amendment Act, 2018.

As per prosecution case, recovery of total 450 litres of country made liquor was made from bushes in an open field and the local villagers disclosed the name of this petitioner along



with co-accused Devendra Sah, who unloaded the liquor at that place from their vehicle.

The learned counsel for the petitioner submits that petitioner is innocent and has been falsely implicated in this case as he has no knowledge about the recovery of the liquor made and has no concern with the place from where the recovery of illicit liquor has been made. The petitioner has been falsely implicated in this case merely on the basis of suspicion. Due to his antecedent, most of the cases has been registered under Phulwariya Police Station which is the home police station of this petitioner and the case has been registered due to previous enmity. Altogether 13 cases have been instituted against this petitioner apart from the present one and in six such cases, he is on bail. In the instant case, nothing has been recovered from his conscious possession and he was not apprehended from the spot. Charge-sheet has been submitted and he is in custody since 31.03.2022.

Learned APP opposes the prayer for bail.

Having regard to the submissions made on behalf of the parties and considering the fact that recovery is stated to be from an open place and no recovery has been shown from this petitioner and also considering the submission of charge-sheet



as well as period of custody of this petitioner, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-II-cum-Special Judge, Excise Court No-1, Gopalganj in connection with Phulwariya P.S. Case No. 359 of 2021, subject to the condition mentioned in Section 437(3) of the Cr.P.C. and other the following conditions:

- (i) The bail bond of the petitioner will be accepted only after framing of charge, if not already framed.
- (ii) One of the bailors will be Bairister Yadav, father of the petitioner, who has sworn the affidavit.
- (iii) The petitioner will remain present on each and every date fixed by the court below.
- (iv) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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