

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.38491 of 2021**

Arising Out of PS. Case No.-193 Year-2019 Thana- BAHADURGANJ District- Kishanganj

Mubarak Hussain @ Mobarok Hossain, S/o Altab Ali, R/o village- Uttar Rampur, P.S.- Chakulia, District- Uttar Dinajpur

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Radha Mohan Singh, Adv.

For the Opposite Party/s : Mr.Anant Kumar I, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 31-01-2022 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr. Anant Kumar-I, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in connection with Special Case No.230 of 2019 (C.I.S.-230 of 2019) arising out of Bahadurganj P.S. Case No.193 of 2019 registered for the offences punishable under Sections 420, 468, 471 and 427 of the Indian Penal Code and Sections 30(a) and 45 of the Bihar Prohibition and Excise Act, 2016. He is in custody in connection with this case since 08.02.2021. The petitioner has got no criminal antecedent.



Learned counsel for the petitioner submits that the petitioner comes from the State of West Bengal. As per the allegations when the police intercepted a Scorpio vehicle, the driver of the said vehicle fled away. As per the seizure list, altogether 164.25 liters of foreign liquor and 23 liters of beer have been recovered from the said vehicle. Besides that police also found the driving licence of one Raja Kumar @ Raj Kumar who is a resident of the district of Araria in the State of Bihar. The vehicle was carrying a fake registration number and the owner of the vehicle is one Rajendra Mandal.

Learned counsel submits that in course of investigation the said Raja Kumar alleged that the liquors were loaded in the State of West Bengal in presence of the petitioner and it is for that reason the petitioner has been arrested in connection with this case and later on he has been implicated in three other cases which are disclosed in paragraph '11' of the petition.

It is his submission that even if it is assumed for the sake of argument that the petitioner was present in the State of West Bengal when the said vehicle was being loaded, since in the State of West Bengal the liquor is not banned and mere presence of the petitioner at the time of loading of the vehicle in



the State of West Bengal cannot be a ground to implicate him in the case.

Learned APP for the State has though opposed the prayer for regular bail of the petitioner, but considering the facts and circumstances of the case wherein it is not controverted by learned APP that the petitioner is a resident of the State of West Bengal and the allegation is that he was present at the time of loading of the vehicle in the State of West Bengal and no more, further that the petitioner is in custody for almost one year in connection with this case, this Court directs that the petitioner above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-cum-Special Judge (Excise), Kishanganj in connection with Special Case No.230 of 2019 (C.I.S.-230 of 2019) arising out of Bahadurganj P.S. Case No.193 of 2019, subject to the condition as laid down under Section 437 (3) Cr.P.C.

And further condition that 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 cancellation 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.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

