

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30343 of 2022**

Arising Out of PS. Case No.-728 Year-2021 Thana- SARAIYA District- Muzaffarpur

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Arun Kumar, S/o Raghuvveer Rai, Resident of Vill.- Dhanrajpur, P.S.- Saraiya,
Distt.- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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with

CRIMINAL MISCELLANEOUS No. 31626 of 2022

Arising Out of PS. Case No.-728 Year-2021 Thana- SARAIYA District- Muzaffarpur

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Amarnath Bhakat @ Amarnath Bhagat @ Pappu Bhakt @ Pappu Bhagat, Son
Of Late Harihar Bhagat, R/O- Village- Dhanrajpur Bakhra P.S.- Saraiya
District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 30343 of 2022)

For the Petitioner/s : Mr.Mukesh Kumar, Advocate

For the Opposite Party/s : Mr.Dilip Kumar No. 1, APP

(In CRIMINAL MISCELLANEOUS No. 31626 of 2022)

For the Petitioner/s : Mr.Rajesh Mohan, Advocate

For the Opposite Party/s : Mr.Gulnar Begum, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

4 23-12-2022 Since both the applications arise out of Saraiya P.S.

Case No. 728 of 2021, as such, they have been taken up together

and are being disposed of by this common order.

Heard learned counsels for the petitioners and learned
APP for the State through video conferencing.

Let the defect (s), if any, as pointed out by the



office, be removed within a period of four weeks.

In the present case, the petitioners seek bail in connection with Saraiya P.S. Case No. 728 of 2021, registered for the alleged offence under Sections 272, 273, 284, 328, 307, 302, 34, 120 (B) of the Indian Penal Code and Sections 30 (a), 37 (b), 33, 36, 34 of the Bihar Prohibition and Excise Act.

As per prosecution case, the police received information about the death of a person due to consumption of spurious liquor and illness of 5-7 persons in the same occurrence. During investigation, the police came to know that the petitioners and other co-accused persons supplied the liquor. On the basis of information, a raid was conducted in the house of the co-accused Santosh Kumar and recovery of illicit liquor and other articles to be used in manufacturing and bottling of illicit liquor were made from his house.

The learned counsels for the petitioners submits that the petitioners are innocent and have been falsely implicated in this case. The petitioners have been named in this case because they attended the '*Chhathi*' ceremony in which the deceased was also present and merely on suspicion, the petitioners have been named in this case. The petitioners were not named even by the co-accused Santosh Kumar from whose house recovery



of a number of incriminating articles have been shown. The learned counsel for the petitioner Arun Kumar submits that the petitioner is brother of co-accused Santosh Kumar, who has been living separately from this petitioner and this fact is known to each and every person of the village. The learned counsel for the petitioner Arun Kumar further submits that he did not participate in the alleged ceremony nor he supplied the spurious liquor. The petitioners are in custody since 31.10.2021 and 03.12.2021, respectively. The charge sheet has been submitted. The co-accused persons have been granted anticipatory bail by a Coordinate Bench of this Court vide order dated 11.11.2022 passed in Cr. Misc. No.52887 of 2022. Another co-accused Rahul Kumar has been granted bail by a Coordinate Bench of this Court vide order dated 14.12.2022 passed in Cr. Misc. No.71099 of 2022.

The learned APP opposes the prayer for bail.

Having regard to the facts and circumstances and submissions made hereinabove and considering the vague nature of allegation coupled with the lack of material to connect the petitioners with the offence as alleged and further considering the submission of charge sheet and period of custody of the petitioners, they are directed to be released on



bail on furnishing bail bonds of Rs. 20,000/- (Twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Special Judge (Excise), Court No.II, Muzaffarpur, in connection with Saraiya P.S. Case No. 728 of 2021, subject to the conditions mentioned in Section 437 (3) of the Code of Criminal Procedure and also the following conditions :

(i) One of the bailors will be a close relative of the petitioners.

(ii) The petitioners will remain present on each and every date fixed by the court below.

(iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioners will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

V.K.Pandey/-

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