

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28844 of 2022

Arising Out of PS. Case No.-435 Year-2018 Thana- MOTIPUR District- Muzaffarpur

Ajay Rai S/O Late Suresh Ray Resident of Village- More, P.S.- Motipur,
District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ritwique, Adv

For the Opposite Party/s : Mr. M.K.Nirala, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 11-08-2022 Heard learned counsel for the petitioner as well
as learned Additional Public Prosecutor for the State

Petitioner seeks bail in a case registered in connection with Motipur P.S.Case No. 435 of 2018 for the offences punishable under Sections 272 and 273 of the Indian Penal Code and section 30(a) of the Bihar Prohibition & Excise Act.

As per the prosecution case, it is alleged that on the secret information that the petitioner along with his companions had kept liquor in a Seesam orchard near his house and on the aforesaid information police conducted raid and altogether 887.400 liters Indian made foreign liquor was recovered.



It is submitted by the learned counsel for the petitioner that he was neither arrested at the spot nor any incriminating material has been recovered from person or possession of the petitioner . It is further submitted that the alleged recovery has been made from the open place accessible to all. It is next submitted that only because of the past criminal antecedent, the name of the petitioner has been implicated. Taking into consideration the aforesaid facts earlier the petitioner was allowed anticipatory bail in Cr. Misc. No. 54997 of 2018 vide order dated 27.09.2018 but as the petitioner could not surrendered within stipulated time due to illness and in the meantime he was arrested.

On the other hand, learned counsel for the State opposed the bail application and submits that the petitioner has multiple criminal antecedent.

Having heard the rival contentions of the parties and taking into consideration the fact that the alleged recovery has been made from an open place and accessible to all and moreover, petitioner was neither arrested at the spot nor any incriminating material has been recovered from person or possession. Apart from the fact that the



petitioner was earlier allowed anticipatory bail but on account of illness, he could not surrendered and moreover, he is in custody since 21.01.2022, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge Excise, Muzaffarpur in connection with Motipur P.S. Case No. 435 of 2018 subject to the condition that one of the bailors will be the close relatives 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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