

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28843 of 2022

Arising Out of PS. Case No.-231 Year-2019 Thana- BELHAR District- Banka

Diwakar Das Son Of Singheshwar Das R/O- Vill- Bagdasba, P.S.- Belhar,
Dist.- Banka

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ranjay Kumar Singh, Adv

For the Opposite Party/s : Mr.Kanhaiya Kishore, 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 Special Excise Case No. 537 of 2019 arising out of Belhar P.S.Case No. 231 of 2019 for the offences punishable under section 30(a) of the Bihar Prohibition & Excise Act.

As per the prosecution case, it is alleged that while the police party was on patrolling duty apprehended one Arjun Singh and from whose possession 40 kg Mahua was recovered. It is further submitted that on interrogation, the informant came to know that some persons including the petitioner are manufacturing illicit liquor in a forest and



on search huge quantity of Java Mahua and 12 liters illicit country made liquor was recovered. It is further submitted that petitioner and other co-accused managed to escape from the place of occurrence.

It is submitted by the learned counsel for the petitioner that the petitioner was neither arrested at the spot nor any incriminating material has been recovered from person or possession of the petitioner and only because of the past criminal antecedent of the petitioner, his name has been implicated. It is further submitted that admittedly, the recovery has been made from a forest which is a public place and does not belong to the petitioner. It is next submitted that petitioner is in custody since 14.02.2022. It is lastly submitted that other co-accused persons namely, Sunil Das having identical allegation has already been granted anticipatory bail in Cr. Misc. No. 12142 of 2020 vide order dated 12.06.2020 and co-accused Arjun Singh has also been granted regular bail in Cr. Misc. No. 87477 of 2019 vide order dated 28.01.2020.

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



found involved in three other cases.

Having heard the rival contentions of the parties and taking into consideration the fact that petitioner was neither arrested at the spot nor any incriminating material has been recovered from person or possession of the petitioner. The alleged recovery was made from the forest and moreover co-accused persons having identical allegation have already been granted bail by learned co-ordinate Bench of this Court. Moreover, petitioner is in custody since 14.02.2022, apart from the fact that investigation has already been completed and charge sheet has been submitted, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge Excise, Banka in connection with Balhar P.S.Case No. 231 of 2019 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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