

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30427 of 2022

Arising Out of PS. Case No.-563 Year-2021 Thana- MAHUA District- Vaishali

Rakesh Kumar Rai, Son of Raj Narayan Rai, Resident of Village- Allipur
Mukundpur, P.S.- Mahuwa, District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Prakash Chandra Jha, Advocate

For the Opposite Party/s : Mr. Mukesh Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

2 24-08-2022 Learned counsel for the petitioner is permitted to
remove the defect(s), as pointed out by the office, within a
period of four weeks from today.

Heard Mr. Prakash Chandra Jha, learned counsel
appearing on behalf of the petitioner and learned APP for the
State.

The petitioner seeks regular bail, who is in custody in
connection with Mahua P.S. Case No. 563 of 2021 registered for
the offences punishable under Sections 30(a)/32(1), 32(3),
41(1), 41(2)/36 of the Bihar Prohibition and Excise Act.

As per the prosecution case, it is alleged that while the
police was on patrolling duty, received a confidential
information that at village Sahpur, near Chawar, one Container
(Truck), bearing registration No. HR 55T 4907 is parked, rushed



to the place of occurrence and on search total 1117.200 litres of Indian made foreign liquor was recovered. It is also alleged that spy of the police disclosed the name of the petitioner and others, as owner of the illicit liquor.

Learned counsel appearing on behalf of the petitioner submits that neither the petitioner was arrested at the spot nor any incriminating material has been seized from his person or possession and save and except the disclosure made by the spy of the police, there is no other material, which suggests the complicity of the petitioner. It is next submitted that only because of the past criminal antecedent of the petitioner, his name has been implicated in this case. It is further submitted that the alleged recovery has been made from an open place, which is not within the exclusive possession of the petitioner and he is in custody since 03.03.2022.

On the other hand, learned APP for the State opposes the bail application and submits that the petitioner is found involved in three other similar kind of cases.

Having regard to the submissions made on behalf of the parties and considering the fact that the alleged recovery has been made from an open place (Chawar) and neither the petitioner was arrested at the spot nor any incriminating material



has been recovered from his person or possession, apart from the fact that the petitioner is in custody since 03.03.2022, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-II-cum-Special Judge Excise, Vaishali at Hajipur in connection with Mahua P.S. Case No.563 of 2021, 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 physically 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 immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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