

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29425 of 2022

Arising Out of PS. Case No.-40 Year-2021 Thana- HATHAURI District- Muzaffarpur

Hira Mandal, S/o Bujhawan Mandal, R/o Village- Rampur Utari, P.S.-
Hathauri, District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mrs. Nitu Kumari, Advocate

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

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 11-08-2022 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 Mrs. Nitu Kumari, learned counsel appearing
on behalf of the petitioner and the learned APP for the State.

The petitioner seeks regular bail, who is in custody in
connection with Hathauri P.S. Case No. 40 of 2021 registered
for the offence punishable under Section 30(a) of the Bihar
Prohibition of Excise Act.

As per the prosecution case, it is alleged that while the
police party was on patrolling duty, one person on noticing the
police party fled away after throwing his bag. It is further
alleged that on search 9.375 liters of Indian made foreign liquor
was recovered. The police has identified the petitioner.

Learned counsel appearing on behalf of the petitioner



submits that the petitioner was neither arrested at spot nor any incriminating material has been recovered from his person or possession. It is further submitted that only on account of his past criminal antecedent, the name of the petitioner has been implicated in this case. It is next submitted that from the F.I.R. it is evident that nobody has taken the name of the petitioner showing his involvement and moreover, the recovery has been made from a public road and there is no independent witness to the seizure list. It is lastly submitted that the petitioner has been remanded in this case from Hathauri P.S. Case No. 200 of 2021 on 01.02.2022 and since then he is in custody.

On the other hand, learned counsel for the State opposes the bail application.

Having regard to the submissions made on behalf of the parties and considering the fact that the petitioner was neither arrested at the spot nor any incriminating material has been recovered and moreover, he is in custody since 01.02.2022 though after conclusion of the investigation, charge-sheet has been submitted, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Excise court No-1, Muzaffarpur in connection with Hathauri P.S. Case No. 40 of



2021, subject to the condition that one of the bailors will be the close relative 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 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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