

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31322 of 2022

Arising Out of PS. Case No.-293 Year-2021 Thana- DELHA District- Gaya

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PANKAJ KUMAR @ CHHOTU @ CHHOTU KUMAR S/o Suresh Prasad
Resident of Mohalla- Bambaba Gali, Police Station- Delha, District- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Aryan Singh, Advocate.

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

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 26-08-2022 Learned counsel for the petitioner is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Aryan Singh, learned counsel for the petitioner as well as Mr. Sanjay Kumar Singh, learned Additional Public Prosecutor for the State through video conference.

The application for grant of bail to the petitioner, above named, who has been made accused and put behind the bar in connection with Delha P. S. Case No. 293 of 2021 registered for the offences punishable under Sections 30 (a) of the Bihar Prohibition and Excise (Amendment) Act and Section 25 (1-b)a, 35 of the Arms Act.

As per the prosecution case, it is alleged that while



the police party was on patrolling duty, they received an information that the petitioner has kept liquor in his house, conducted raid and on search, 6.750 litres illicit liquor was recovered. It is further alleged that one country-made pistol and a live cartridge has also been recovered from the bed of the petitioner.

Learned counsel appearing on behalf of the petitioner submitted that the alleged recovery has been made from a joint residential house where several persons reside and the petitioner was neither arrested at the spot nor any incriminating material has been recovered from his person or possession. Learned counsel for the petitioner also draws the attention this court towards the seizure list, which has been prepared at 2:50 A.M on 01.12.2021, however, in the said seizure list the name and number of the police station case had already mentioned, though the substantive F.I.R. has been lodged at about 08:30 P.M. on 01.12.2022, which makes the entire prosecution case suspicious. It is next submitted that there is other infirmities in the preparation of the seizure list and moreover, only because of the past criminal antecedent of the petitioner, his name has been implicated in this case. It is lastly submitted that the petitioner is in custody since 29.03.2022 and



moreover, he is on bail in all the criminal cases, which has been mentioned in paragraph no. 3.

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

Having considered the submissions made on behalf of the parties and taking into account the fact that the petitioner was neither arrested at the spot nor any incriminating material has been recovered from his person or possession and moreover, the alleged recovery has been made from a joint residential house, apart from the other infirmities shown by the learned counsel for the petitioner, let the petitioner, above named, 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 Exclusive Special Excise Court no. 1, Gaya in connection with Delha P. S. Case No. 293 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 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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