

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32369 of 2022

Arising Out of PS. Case No.-183 Year-2022 Thana- BARH District- Patna

Manoj Yadav @ Mano Yadav, S/o Rajdev Yadav, R/o village- Gulab-bag
Laheriya Pokhar, P.S.- Barh, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 33910 of 2022

Arising Out of PS. Case No.-183 Year-2022 Thana- BARH District- Patna

Vina Yadav @ Vina Kumar Yadav @ Vina Kumar, Son of Rajdev Yadav,
Resident of Village- Gulab Bag Laheriya Pokhar, P.S.- Barh, Distt.- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 32369 of 2022)

For the Petitioner/s : Mr. Avinash, Advocate

For the Opposite Party/s : Mr. Khurshid Anwar, APP

(In CRIMINAL MISCELLANEOUS No. 33910 of 2022)

For the Petitioner/s : Mr. Avinash, Advocate

For the Opposite Party/s : Mr. Md. Shakir Ahmad, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 31-08-2022 Both the bail applications arise out of the same

police station case, they have been heard together and are being

disposed of by this common order.

Learned counsel for the petitioners is permitted to
remove the defect(s), as pointed out by the office, within a
period of four weeks from today.



Heard Mr. Avinash, learned counsel for the petitioners
and learned APP for the State

The petitioners seek regular bail, who are in custody
in connection with Barh P.S. Case No. 183/2022 registered for
the offences punishable under Sections 332, 333, 353, 307/34 of
the Indian Penal Code, Section 30(a)/45 Bihar Prohibition and
Excise Act 2016 and Section 27 of Arms Act.

As per the prosecution case, it is alleged that the
Railway police on a secret information that a huge amount of
foreign liquor is being carried by accused persons from a train
reached at the place of occurrence. On noticing the police party,
four persons got down from the train with two bags and five
persons were standing there succeeded in fleeing away after
throwing the bag. It is further alleged that the police identified
the accused persons, who fled way from the spot and
accordingly the name of the petitioners have been implicated.
While fleeing, the accused persons also resorted to firing. On
search total 84.500 litres of illicit wine has been recovered.

Learned Counsel appearing on behalf of the
petitioners submits that the petitioners were neither arrested at
the spot nor any incriminating material has been recovered from
their conscious or constructive possession. He further submits



that only because of the past criminal antecedent of the petitioners, their names have been implicated in this case, as the prosecution case appears to be absurd that the police identified eight persons while they were fleeing from the place of occurrence. It is next submitted that apart from the other infirmities in the seizure list, there is no compliance of Section 100 of the Cr.P.C, moreover, after completion of the investigation, charge-sheet has been submitted. It is lastly submitted that the petitioners are in custody since 13.04.2022 and 15.04.2022 respectively.

On the other hand, learned counsel for the State opposed the bail application and submits that so far the petitioner in Cr. Misc. No. 32369 of 2022 is concerned, he is found involved in seven other similar kind of cases and so far the petitioner in Cr. Misc. No. 33910 of 2022 is concerned, he is found involved in four other similar kind of cases.

In response to the aforesaid, learned counsel for the petitioners submits that the petitioner in Cr. Misc. No. 32369 of 2022 is on bail in five cases and the petitioner in Cr. Misc. No. 33910 of 2022 is on bail in all the four cases.

Having regard to the submissions made on behalf of the parties and considering the fact that the petitioners were



neither arrested at the spot nor any incriminating material has been recovered from their conscious or constructive possession and save and except the disclosure made by the Railway police station, there is no other cogent material suggesting the complicity of the petitioners in the present crime, let the petitioners, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise, Patna in connection with Barh P.S. Case No. 183 of 2022, subject to the condition that one of the bailors will be the close relatives of the petitioners with further conditions which are as follows:-

(i) The petitioners will cooperate in conclusion of the trial.

(ii) They will remain physically present on each and every date of trial till disposal of the case.

(iii) They 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, their bail bonds will liable to be cancelled.

(v) The court below shall verify the criminal



antecedent of the petitioners and in case, at any stage, it is found that the petitioners have concealed their criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioners. 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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