

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33254 of 2022

Arising Out of PS. Case No.-26 Year-2020 Thana- HATHUA District- Gopalganj

Rakesh Patel @ Bhandol @ Mandol Son Of Shri Kishun Prasad @ Shri Kishun Patel @ Kishun Patel Resident Of Village- Manichhapar, Police Station- Hathua, District- Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Lokesh Kumar Singh, Advocate

For the Opposite Party/s : Mr. Anand Kishore Choudhary, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 28-07-2022 Today this case has been listed on priority basis, on the motion slip filed by the learned counsel for the petitioner.

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. Lokesh Kumar Singh, 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 Hathua P.S. Case No. 26 of 2020 registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

As per the prosecution case it is alleged that while the police was on patrolling duty, received a secret information



whereupon they raided the house of the petitioner and on search being made total 55.30 liter of Indian made foreign liquor was recovered. It is further alleged that some persons including the wife of the petitioner were also arrested.

Learned counsel appearing on behalf of the petitioner submits that in fact the recovery has been made from a joint family house where several persons used to reside and the petitioner cannot be held responsible. It is further submitted that the petitioner was neither arrested at the spot nor any incriminating material has been recovered from his actual conscious possession. It is next submitted that there is no compliance of Section 100(6) of the Code of Criminal Procedure, apart from the other serious infirmities in the preparation of seizure list. It is lastly submitted that this petitioner is in custody since 16.04.2022.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that the alleged recovery has been made from the room of the petitioner.

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 from the person or possession and moreover the recovery has been made from a joint family house and he is in



custody since 16.04.2022 having fair antecedent, though after conclusion of investigation, charge-sheet has been submitted, 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 Excise Court No.-I, Gopalganj in connection with Hathua P.S. Case No. 26 of 2020, 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..

(Harish Kumar, J)

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