

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34151 of 2022

Arising Out of PS. Case No.-165 Year-2017 Thana- BIRPUR District- Supaul

SHRAWAN KUMAR @ SHRAWAN MUKHIYA @ SARWAN KUMAR S/o
Shiv Mukhiya @ Shiv Narayan Mukhiya R/o village- Somda @ Sehwan,
P.S.- Ratanpura, Ward No. 06, District- Supaul

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Parmeshwar Mehta, Advocate

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

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 26-08-2022 Heard learned counsel for the petitioner and learned
APP for the State through virtual court proceeding.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in connection with Birpur P.S. Case No. 165 of 2017 registered for the alleged offences under Sections 38(1)(2), 41(1)(2) of the Bihar Prohibition and Excise Act, 2016 and under Sections 420 and 34 of the Indian Penal Code.

As per prosecution case, the police received secret information about liquor smugglers bringing liquor from Nepal on three motorcycles and a raid was conducted and all the three



motorcycles were intercepted and their drivers were arrested. The driver of the first motorcycle disclosed the name of the petitioner who was successful in fleeing away from the spot when the motorcycles were intercepted. It was disclosed that the first motorcycle from which co-accused Bechan Birajee was apprehended, he along with this petitioner used to ensure that the route was clear and on the remaining two motorcycles, illicit liquor was transported. About 300 liters of Nepali country made liquor was recovered and seized.

Learned counsel for the petitioner submits that petitioner was not apprehended from the spot and nothing incriminating has been recovered from his possession. The petitioner was named by the co-accused Bechan Birajee due to enmity otherwise there is nothing to connect the petitioner with the alleged occurrence. The petitioner is neither the owner nor the driver of the motorcycle seized. The co-accused Bechan Birajee and Santosh Mandal have been granted bail vide order dated 16.11.2017 passed in Cr. Misc. No. 53223/2017 and order dated 15.09.2017 passed in Cr. Misc. No. 41694/2017, respectively by different Coordinate Benches. Another co-accused Shyam Singh also granted bail vide order dated 11.01.2018 passed in Cr. Misc. No. 1290/2018. Charge sheet has



been submitted in this case and the petitioner is in custody since 25.01.2022.

Learned APP for the State opposes the prayer for bail of the petitioner.

Having regard to the submission made on behalf of the parties and considering the fact that petitioner was not apprehended from the spot and no recovery has been shown from him and also considering the submission of charge sheet along with his period of custody, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-Vth-cum-Special Judge, Excise, Court No. 2, Supaul, in Session Trial Excise No. 621 of 2017 (Supplementary) in connection with Birpur P.S. Case No. 165 of 2017, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions:

- (i) The bail bond of the petitioner will be accepted only after framing of charge, if not already framed.
- (ii) One of the bailors will be a close



relative of the petitioner.

(iii) The petitioner will remain present on each and every date fixed by the court below.

(iv) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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