

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38298 of 2022

Arising Out of PS. Case No.-40 Year-2021 Thana- NAYAGAON District- Saran

Bhushan Rai Son Of Late Kalika Rai R/O Village- Babhangawa, P.S.-
Nayagoan, District- Saran At Chapra

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Chandra Mohan Jha, Advocate.

For the Opposite Party/s : Mr. Bishweshwar Ram, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 16-09-2022 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. Chandra Mohan Jha, learned counsel for the petitioner as well as learned Additional Public Prosecutor for the State.

The application for grant of bail to the petitioner, above named, who has been made accused and put behind the bar in connection with Nayagoan P. S. Case No. 40 of 2021 registered for the offences punishable under Sections 30, 38, 41, 30 (D) and 37(C) of the Bihar Prohibition and Excise Act.

The allegation against the petitioner is to be engaged in selling of illicit liquor. In course of search 180 litres country-made wine along with some apparatus and utensils



along with two gas cylinders were recovered from the place situated near a poultry form beside the house of the petitioner.

Learned counsel appearing on behalf of the petitioner submitted that from the tenor of the F.I.R. it would be evident that the alleged recovery has been made near a poultry form of the petitioner, which is an open place accessible to all. It is next submitted that there is no compliance of Sections 81-82 of the Bihar Prohibition and Excise Act, 2016, apart from non-compliance of Section 100 of the Cr.P.C. It is further submitted that the petitioner was not even arrested at the spot and he is in custody since 26.12.2021.

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

Regard being had to 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 possession rather the recovery has been made near a poultry form, which is an open place accessible to all and moreover, the investigation of the crime is already completed and the charge sheet has been submitted and the petitioner is in custody since 26.12.2021, 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 Additional District and Sessions Judge- 2nd cum Special Judge, Excise, Saran at Chapra in connection with Nayagoan 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 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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