

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36156 of 2022**

Arising Out of PS. Case No.-238 Year-2019 Thana- BAISI District- Purnia

Rajesh Tewari @ Rajesh Tiwari @ Naresh Tiwari, Son Of Late Srinath Tewari, Resident of - House no. 3, Dilkhusa, S.T. Park, Circus Avenue, P.S.-Karaya, District- Kolkata-700017 (West Bengal)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 36947 of 2022

Arising Out of PS. Case No.-238 Year-2019 Thana- BAISI District- Purnia

Ramesh Tewari @ Ramesh Tiwari, Son of Late Srinath Tewari Resident of House No.-3, Dilkhusa, S.T. Park, Circus Avenue, P.S.-Karaya, District- Kolkata-700017 (West Bengal).

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 36156 of 2022)

For the Petitioner/s : Mr. Satyabir Bharti, Advocate
Mrs.Prachi Pallavi, Advocate

For the Opposite Party/s : Mr.Arvind Kumar Pandey, APP
(In CRIMINAL MISCELLANEOUS No. 36947 of 2022)

For the Petitioner/s : Mr. Satyabir Bharti, Advocate
Mrs.Prachi Pallavi, Advocate

For the Opposite Party/s : Mr.Arvind Kumar Pandey, APP

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER**

3 09-09-2022 Since both the applications arise out of Baisi P.S.

Case No. 238 of 2019, as such, they have been taken up together
and are being disposed of by this common order.

Heard learned counsel for the petitioners and learned
APP for the State through video conferencing.

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 petitioners seek bail in connection with Baisi P.S. Case No. 238 of 2019, registered for the alleged offence under Sections 272, 272 of the Indian Penal Code and Sections 30 (a), 33, 41 and 47 of the Bihar Prohibition and Excise Act.

As per the prosecution case, recovery of 8000 litres of spirit was made from two trucks and a number of co-accused persons were apprehended from these two trucks. The name of the petitioner came up after some time during investigation.

The learned counsel for the petitioners submits that the FIR in this case has been registered way back in the year 2019 and the petitioners came up to be named in this case in the year 2022. The petitioners were not named in the FIR and none of the co-accused named them for their involvement in the case. However, the police got recorded the confessional statement of some person in some other case where they named these petitioners for also being involved in the present case of recovery of 8000 litres of spirit. The learned counsel further submits that there is doubt over name of petitioner Rajesh Tewari as he has never been known by Naresh Tewari. The learned counsel further submits that the petitioners are bonafide



transporters and they own a number of trucks and tankers, but at no point of time, he ever transported liquor in the State of Bihar after coming into effect of prohibition law. The learned counsel further submits that though the name of the petitioners transpired in the confessional statement of other co-accused persons, but the police did not take any pain to verify the allegations regarding involvement of the petitioners in this case. The learned counsel further submits that a number of co-accused persons who were apprehended from the spot and were named in the FIR have been granted regular bail/anticipatory bail by different Coordinate Benches of this Court in Cr. Misc. Nos.80627 of 2019 and 33040 of 2021, respectively. The charge sheet has been submitted in this case. The petitioners are in custody since 24.04.2022.

The learned APP opposes the prayer for bail submitting that the petitioners have criminal antecedent.

Having regard to the facts and circumstances and submissions made hereinabove and considering the fact that the petitioners have been named in this case after quite long time and there is lack of material on record to connect them with the recovery of the spirit and further considering the fact that nothing has been shown to be recovered from their conscious



possession and also considering the submission of charge sheet and period of custody of the petitioners, they are directed to be released on bail on furnishing bail bonds of Rs. 20,000/- (Twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, Excise Court No.1, Purnea, in connection with Baisi P.S. Case No. 238 of 2019, 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 petitioners will be accepted only after framing of charge, if not already framed.
- (ii) One of the bailors will be a close relative of the petitioners.
- (iii) The petitioners 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 petitioners will be liable to be cancelled by the court concerned.

V.K.Pandey/-

(Arun Kumar Jha, J)

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