

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36938 of 2022

Arising Out of PS. Case No.-332 Year-2021 Thana- BAKHARI District- Begusarai

Rakesh Roy @ Rakesh Kumar, Son of Sri Rajendra Rai, R/O Village-Darhathansingh, P.S.- Bakhri, Distt.- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajiv Prashant, Advocate

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

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 31-08-2022 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. Rajiv Prashant, learned counsel for the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Bakhri P.S. Case No. 332 of 2021 registered for the offences punishable under Section 120(B) of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act.

As per the prosecution case, it is alleged that on a secret information, the police apprehended ten wheeler truck, bearing Registration No. BR11L-8911 and on search total 5884.92 litres of Indian made foreign liquor was recovered.



Learned counsel appearing on behalf of the petitioner submits that the petitioner is neither named in the F.I.R. nor any incriminating material has been recovered from his person or possession. However, during the course of investigation, the name of the petitioner has been disclosed by the one of the co-accused person and save and except the disclosure made by the co-accused, there is no other material suggesting the complicity of the petitioner in the present crime. It is next submitted that only on account of past criminal antecedent of the petitioner, his name has been implicated in various cases, which shows the high handedness of the police officials. It is lastly submitted that in this case the police made approximately 25-30 persons, as accused without any justifiable evidence and moreover the investigation of the crime is completed and charge-sheet has been submitted. The petitioner is in custody since 07.06.2022.

On the other hand learned APP for the State vehemently opposes the bail application and submits that the petitioner has multiple criminal antecedent, inasmuch as he is found accused in seven other cases.

Having regard to the submissions made on behalf of the parties and considering the fact that the petitioner is neither named in F.I.R. nor any incriminating material has been



recovered from the conscious or constructive possession of the petitioner and save and except the disclosure made by the co-accused person, there is no other material and moreover the petitioner is on bail in all the cases except Bakhri P.S. Case No. 317 of 2021, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-cum- Special Judge, Excise Court No. II, Begusarai in connection with Bakhri P.S. Case No. 332 of 2021, 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.

(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 immediate step for cancelling the bail bond of the petitioner. 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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