

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39538 of 2022

Arising Out of PS. Case No.-566 Year-2020 Thana- NARPATGANJ District- Araria

Tulla @ Somitulla, Son of Md. Nizamuddin, R/O- Village- East Matiyari,
Ward No.-12, P.S.- Dalkolha @ Dhalkola Uttar, District- Uttar Dinajpur, West
Bengal

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Santosh Kumar, Advocate

For the Opposite Party/s : Mr. Aditya Narayan Singh.1, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 16-09-2022 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. Santosh Kumar, learned counsel for the
petitioner and learned APP for the State through video
conferencing.

The petitioner seeks regular bail, who is in custody in
connection with Narpatganj Case No. 566 of 2020 registered for
the offences punishable under Section 30(a), 41(1) of the Bihar
Prohibition and Excise Amendment Act, 2016.

As per prosecution case, it is alleged that the police
on a secret information intercepted a truck bearing registration
No.- NL02Q 1842, however, on noticing the police party, the
driver of the truck succeeded in fleeing away and the co-driver,



namely, Md. Mahboob Alam was apprehended. The apprehended co-driver disclosed the name of the petitioner and others.

Learned counsel appearing on behalf of the petitioner submits that the petitioner was neither apprehended nor he had been seen at the spot nor any incriminating material has been recovered from his conscious or constructive possession. He further submits that save and except the disclosure made by apprehended co-accused person, there is no material suggesting the complicity of the petitioner in the present crime. However, only on account of past criminal antecedent in similar nature of offence, his name has been implicated in this case, though the criminal antecedent of a person cannot be a sole ground to keep him behind the bar for an indefinite period. He next submits that the petitioner is in custody since 10.02.2022 and after completion of the investigation, charge sheet has already been submitted.

On the other hand, learned APP for the State opposes the bail application and submits that the petitioner has multiple criminal antecedent.

Regard being had to the submissions made on behalf of the parties and considering the fact that the petitioner was



neither apprehended at the spot nor any incriminating material has been recovered and save and except the disclosure made by apprehended person, without there being any cogent material, he is in custody since 10.02.2022, 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 Exclusive Special Excise Court No. 1, Araria in connection with Narpatganj P.S. Case No. 566 of 2020 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 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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