

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47502 of 2021

Arising Out of PS. Case No.-113 Year-2020 Thana- SAHEBGANJ District- Muzaffarpur

NIRAJ KUMAR @ NIRAJ SAHANI Son of Fulena Sahani @ Filena Chaudhary Resident of Village - Chhota Bariyarpur, Hawaiiadda, P.S.- Chhatauni, District - East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Priyesh Kumar

For the Opposite Party/s : Mr.Raj Ballabh Singh

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 13-01-2022 Heard the parties through video conferencing.

Heard learned counsel appearing on behalf of the petitioner and learned APP appearing on behalf of the State.

Let the defect(s) be removed within two weeks of the complete start of the physical Court in normal course.

Petitioner, who is in custody since 28.06.2021, seeks regular bail in connection with Sahebganj P.S. Case No. 113 of 2020 registered for offences punishable under Sections 272, 273 and 414 of the Indian Penal Code and Section 30(a) of Bihar Prohibition and Excise Act, 2016.

The prosecution case, in brief, is that the Police on the basis of confidential report proceeded towards the place of occurrence and recovered total quantity of 2100.390 litres of illicit liquor from twelve different vehicle standing near the



garden of one Devendra Singh.

Learned counsel appearing on behalf of the petitioner submits that petitioner is innocent and he has falsely been implicated in this case on the basis of his name having been disclosed by Chowkidar. Learned counsel further submits that the petitioner is neither the owner of the vehicle nor he has any concern with the seized articles. He further submits that other co-accused, namely, Anwar Miya @ Anwar Hussain and Mukesh Sahni have already been enlarged on bail by this Court vide order dated 24.11.2020 passed in Criminal Miscellaneous No. 28590 of 2020 and 20.01.2021 passed in Criminal Miscellaneous No. 34777 of 2020.

Learned A.P.P., however, opposes the prayer for bail. He further submits that trade of illicit liquor is rampant in the State of Bihar and the petitioner is member of such organized trade and as such he does not deserve to be released on bail.

Having considered the rival submission of the parties and taking into consideration the antecedent of the petitioner, the Court below is directed to seek report from the concerned Superintendent of police having jurisdiction with respect to the details of cases against the petitioner and if no other criminal case is pending against the petitioner as stated in paragraph



No.3 of the bail application, the petitioner be released on bail subject to the condition that any of his close relative or his responsible person furnishes Bank Draft of Rs. 2,00,000/- (rupees Two Lacs) in favour of Bihar State Legal Services Authority at Patna in Court below which shall be retained by the Court below to see that the petitioner does not involve in any other similar case or any case and if the Bank Draft of aforesaid amount is deposited in manner stated above then the petitioner shall be released forthwith upon furnishing bail bond of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise, Muzaffarpur in connection with Sahebganj P.S. Case No. 113 of 2020 subject to the following conditions:

(i) That one of the bailors of the petitioner shall be his close relative. Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(ii) That the petitioner shall not indulge in any similar offence till conclusion of the trial. If the petitioner is found involved in similar nature of offences, after their release on bail the trial Court shall take steps to cancel their bail bonds.

(iii) The petitioner shall co-operate with the



investigation, if not already concluded, and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(iv) If the petitioner tempers with the evidence or the witnesses of the case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

It is made clear that if the petitioner is involved subsequently in another excise matter or in any other case then the amount of bank draft will be deposited in the account of Bihar State Legal Services Authority, Patna. If the Court below finds the conduct of the petitioner is uniformly good, then the said draft be returned back to the petitioner on such appropriate terms and conditions fixed by the Court below.

(Purnendu Singh, J)

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