

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47581 of 2021

Arising Out of PS. Case No.-154 Year-2020 Thana- VIJAYEPUR District- Gopalganj

BAIDYANATH JAISWAL S/o BYAS JAISWAL R/o VILLAGE-BHOREY,
P.S-BHOREY, DISTRICT-GOPALGANJ.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pankaj Kumar Dubey, Advocate
For the Opposite Party/s : Mr. Shailendra Kumar, APP

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 31.05.2021 seeks
regular bail in connection with Vijaypur P.S. Case No. 154 of
2020 registered for offence punishable under Sections 30(a),
32(3)/41(1) of the Bihar Prohibition and Excise (Amendment)
Act, 2018 and Sections 25(1-b) (A)/26 of the Arms Act.

Prosecution case in brief is that upon receiving secret
information, police started checking of vehicles, in the
meantime one Tata Safari vehicle bearing Registration No. BR
11M 1963, which was indicated by the police to stop, tried to



flee but after some chase the police has arrested two persons and one person managed to flee away from the place of occurrence. During search of the arrested person, a loaded country-made pistol and three live cartridges were recovered from their possession and they told that the key and vehicle belongs to Baidyanath Jaiswal (petitioner).

Learned counsel appearing on behalf of the petitioner submits that petitioner has no concern either with the seized vehicle or with the illicit liquor and neither any recovery has been made of any fire arm from the possession of the petitioner. He further submits that the petitioner has been roped in the present case on the allegation that he is also engaged in the illicit trade of liquor in the State of Bihar. He further submits that the other co-accused persons namely, Adarsh Kumar and Vikash Kumar have been granted bail vide order dated 13.04.2021 passed in Cr. Misc. No. 3596 of 2021 and vide order dated 08.09.2021 passed in Cr. Misc. No. 14815 of 2017 respectively.

Learned A.P.P. has opposed the prayer for grant of bail to the petitioner. He further submits that petitioner is a habitual offender and he has been made accused in other cases for offences having been committed by him under Section 30(a) of



the Bihar Prohibition and Excise Act.

Considering the facts and circumstances of the case and criminal history of the petitioner, the Court below is directed to enlarge the petitioner to bail subject to the condition that if the petitioner furnishes Bank Draft of Rs. 2,00,000/- (Rupees Two Lacs) in favour of Bihar State Legal Services Authority at Patna in Court below along with two solvent Sureties of the like amount each to the satisfaction of learned Additional District and Session Judge II Cum-Special Judge Excise, Gopalganj in connection with Vijaypur P.S. Case No. 154 of 2020 subject to the following conditions:

(i) Bailors should be local having sufficient immovable property within the jurisdiction of the court concerned.

(ii) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

(iii) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(iv) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bond.



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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