

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39432 of 2022

Arising Out of PS. Case No.-215 Year-2021 Thana- MADHEPUR District- Madhubani

Chandan Roy, S/O Gauri Roy, Resident of Village- Madhepur, Sanghat Chowk, P.S.- Madhepur, District- Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ravi Prakash, Advocate

For the Opposite Party/s : Mr. Satyendra Narayan Singh, 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. Ravi Prakash, 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 Madhepur P.S. Case No. 215 of 2021 for the offences punishable under Sections 272, 273 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act, 2018.

As per prosecution case, it is alleged that in course of patrolling, the police intercepted a tempo, however, on noticing the police party, the passengers fled away and the tempo driver, who was apprehended by the police, disclosed the name of the



owner of the said tempo. On search, total 200 litres of country made illicit wine was recovered.

Learned counsel appearing on behalf of the petitioner submits that the petitioner was neither apprehended at spot nor any incriminating material has been recovered from his conscious or constructive possession. He further submits that the petitioner, being the owner of the tempo, was not aware as to what was being carried by the driver and the passengers, as the same was being run on rent. He next submits that only on account of one past criminal antecedent in connection with identical offence, the name of the petitioner has been implicated in this case, though the petitioner is already on bail in such case. He lastly submits that the petitioner is in custody since 15.05.2022, moreover, the investigation of the crime is already completed and the charge sheet has been submitted.

On the other hand, learned APP for the State opposes the bail application.

Having regard to the submissions made on behalf of the parties and considering the fact that the petitioner was neither apprehended at spot nor any incriminating material has been recovered and so far the tempo, from which recovery has been made, is concerned, the same was being run on rent for the



purposes of carrying passengers and goods and the petitioner has no concern with the alleged recovered illicit wine, moreover, he is in custody since 15.05.2022, 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 Additional Sessions Judge-II- Cum-Special Judge, Excise Act, Madhubani in connection with Madhepur P.S. Case No. 215 of 2021 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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