

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39546 of 2022

Arising Out of PS. Case No.-384 Year-2021 Thana- NAWADA District- Nawada

KAUSHAL YADAV Son of Sharwan Yadav Resident of village - Khemchand
Bigha, P.S.- Nawada, District - Nawada

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sheo Kumar Prasad, Advocate.

For the Opposite Party/s : Mr. Pronoti 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. Sheo Kumar Prasad, learned counsel appearing on behalf of the petitioner and the learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Nawada (Town) P.S. Case No. 384 of 2021 registered for the offences punishable under Sections 33, 34, 36 and 44 of the Bihar Prohibition and Excise Act.

As per prosecution case, it is alleged that on a confidential information that some persons are engaged in manufacturing and selling spurious hooch, conducted raid and in course of such raid 15 litres of illicit liquor with empty



polythene was recovered from the house of Manti Devi. It is further alleged that on account of consumption of spurious liquor, several persons fell ill and one of them died.

Learned counsel appearing on behalf of the petitioner submits that the petitioner is not named in the F.I.R. However, during the course of investigation his name transpired on the confessional statement of co-accused Arvind Yadav, who has disclosed the name of the petitioner as one of the associates. It is next submitted that so far the criminal antecedent of the petitioner is concerned, most of the cases are arising out of the same occurrence. It is next submitted that save and except the confessional statement, there is no other material, which suggests the complicity of the petitioner in the present crime and moreover the investigation of the crime is already completed and the charge-sheet has been submitted and he is in custody since 28.03.2022.

On the other hand, learned APP for the State opposes the bail application and submits that the petitioner is named in altogether 19 criminal cases and moreover during the course of investigation, it has come that the petitioner along with his associates used to sell spurious liquor.

Having regard to the submissions made on behalf of



the parties and taking into consideration the fact that the petitioner is neither named in the F.I.R. nor any incriminating material, much less, any spurious liquor has been recovered from his person or possession and he is in custody since 28.03.2022, inasmuch as mere criminal antecedent of a person cannot be a sole ground for rejection of the bail, 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 District and Sessions Judge-II-cum-Special Judge, Nawada in connection with Nawada (Town) P.S. Case No. 384 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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