

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39522 of 2022

Arising Out of PS. Case No.-207 Year-2021 Thana- SONEPUR District- Saran

Nokhi Rai @ Nagendra Rai, Son of Amir Lal Rai, R/O Baburbani, P.S.-
Sonpur, District- Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ram Jiban Pd. Singh, Advocate
For the Opposite Party/s : Mr. Md. Fahimuddin, 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. Ram Jiban Pd. Singh, 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 Sonepur P.S. Case No. 207 of 2021 registered for the offences punishable under Sections 467, 468, 471, 420, 272, 273, 120(B) of the Indian Penal Code and Sections 30(a)/34/36/38/40 of the Bihar Prohibition and Excise Act.

Allegation against the petitioner is to be engaged in trade of illicit wine. The police rushed to Baburbani village and Diyara, however, on noticing the police party, 5-6 women present there started throwing gallon, gas cylinder and other



utensils and apparatus into Diyara Bandh. However, when the police reached at the spot, all of them succeeded in fleeing away. The local Chaukidar disclosed the name of the persons, including the petitioner.

Learned counsel appearing on behalf of the petitioner submits that from the F.I.R., it would be evident that the petitioner was neither apprehended at the spot nor any incriminating material has been recovered from his conscious or constructive possession. It is admitted that the alleged recovery has been made from the Diyara Bandh of Baburbani village and, moreover, there is no independent witness of the seizure list, apart from non-compliance of Sections 81 and 82 of the Bihar Prohibition and Excise Act. He further submits that only because of the past criminal antecedent, the name of the petitioner has been implicated. Learned counsel for the petitioner lastly submits that on account of inadvertence, the correct position of the criminal antecedent of the petitioner could not be mentioned in paragraph 3 of the bail application and, as such, a supplementary affidavit has been filed bringing on record the fact that the petitioner is found involved in seven other criminal cases.

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, moreover, the alleged recovery has been made from the Diyara Bandh of village Baburbani, which is an open place, accessible to all and the criminal antecedent of a person cannot be a sole ground to refuse the prayer for 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 2nd Exclusive Special Excise Court, Saran at Chapra in connection with Sonapur P.S. Case No. 207 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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