

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39116 of 2022

Arising Out of PS. Case No.-387 Year-2020 Thana- DALSINGHSARAI District- Samastipur

Mithlesh Kumar @ Mithilesh Mahto, Son of Janak Mahto, R/o village-
Bambaiya Harlal, P.S. - Dalsinghsarai, Dist. - Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dilip Kumar Roy, Advocate

For the Opposite Party/s : Mr. Damodar Prasad Tiwary, 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. Dilip Kumar Roy, 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 Dalsinghsarai P.S. Case No. 387 of 2020
registered for the offence punishable under Section 30 (a) of the
Bihar Prohibition and Excise Act, 2016.

As per prosecution case, it is alleged that the police on
a secret information raided the filed of co-accused Awadhesh
Mahto and on noticing the police party 14-15 accused persons
succeeded in fleeing away, however, the Chaukidar identified 8
of the persons, including the petitioner. On search, total 252



litres of illicit wine was recovered from the field of co-accused Awadhesh mahto.

Learned counsel appearing on behalf of the petitioner submits that the petitioner was neither arrested at the spot nor any incriminating material has been recovered from his conscious or constructive possession. So far the recovery is concerned, the same has been made from the land of co-accused Awadhesh Mahto and the petitioner has neither any concern with the place of occurrence nor with the recovered illicit liquor. He next submits that only because of his one past criminal antecedent of similar nature, the name of the petitioner has been implicated in this case. He lastly submits that several co-accused persons, having identical allegation, have already been granted bail by the different learned coordinate Benches of this Court, the copies of which have been brought on record by way of Annexure-3 Series to this application. While concluding his submission, he also submits that the petitioner is in custody since 12.01.2022 and moreover the investigation of the crime is completed and charge-sheet has been submitted.

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

Regard being had to the submissions made on behalf



of the parties and considering the fact that the petitioner was neither arrested at the spot nor any incriminating material has been recovered and the co-accused persons, having identical allegation, have already been granted bail, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Excise Court No.1, Samastipur in connection with Dalsinghsarai P.S. Case No. 387 of 2020, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain physically 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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