

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.39512 of 2022

Arising Out of PS. Case No.-176 Year-2018 Thana- SONBERSA District- Sitamarhi

Santosh Kumar @ Santosh Kumar Rai, Son of Late Chulhai Rai, Resident of Village- Parariya, P.S.- Sonbarsa, Dist.- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Santosh Kumar, Advocate

For the Opposite Party/s : Mr. Binod Kumar, 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. Santosh Kumar, 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 Sonbarsa P.S. Case No. 176 of 2018 for the offences punishable under Sections 272, 273 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

Allegation against the petitioner to be engaged in trade of illicit wine, the police conducted raid of the house of co-accused Gauri Rai and, on search, total 432.00 litres of



Nepali Saufi wine was recovered from a bamboo clumps.

Learned counsel appearing on behalf of the petitioner submits that the petitioner was neither apprehended at the spot nor any incriminating material has been recovered from his conscious or constructive possession. He next submits that the alleged recovery has been made from the bamboo clumps in village Basatpur, which is an open place, accessible to all. He next submits that the name of the petitioner has been disclosed by co-accused Gauri Rai and save and except the disclosure made by co-accused person, there is no material suggesting the complicity of the petitioner. He further submits that the name of the petitioner have been implicated in this case only on account of one past criminal antecedent and, moreover, the petitioner is in custody since 30.03.2022.

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 alleged recovery has been made from bamboo clumps in village Basatpur and the petitioner has neither any concern with the place of occurrence nor with the alleged illicit wine and he is in custody since 30.03.2022 and the charge sheet has already been submitted, 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 Special Judge, Exclusive Special Excise Court-1, Sitamarhi in connection with Sonbarsa P.S. Case No. 176 of 2018 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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