

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40132 of 2022

Arising Out of PS. Case No.-18 Year-2022 Thana- BANGARA District- Samastipur

Birendra Ray S/O Daroga Ray Resident of Village- Magurahi, P.S.- Mahua,
District- Vaishali.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Satya Nand Shukla, A.P.P.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

2 21-09-2022 Learned counsel for the petitioner is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Anil Kumar, learned counsel for the petitioner as well as learned Additional Public Prosecutor for the State.

The application for grant of bail to the petitioner, above named, who has been made accused and put behind the bar in connection with Bangra P. S. Case No. 18 of 2022 registered for the offences punishable under Sections 272 and 273 of the Indian Penal Code and Section 30 (a) of the Bihar Prohibition and Excise Act, 2016.



As per the prosecution case, it is alleged that the police, in course of patrolling, intercepted a truck bearing registration number MH19Z-5715. On search, total 3546.00 litre Indian made foreign liquor was recovered. It is also alleged that one Bharat Bhashkar Lokhade, who is said to be the driver of the truck, in question, was apprehended and he disclosed the name of one Pawan Kumar, holder of mobile no. 8876060051. The said mobile was recovered from the possession of the petitioner.

Learned counsel appearing on behalf of the petitioner submitted that petitioner was neither apprehended on the spot nor any incriminating material has been recovered from his conscious or constructive possession and save and except the recovery of the mobile phone, the number of which was disclosed by the driver of the said truck, who apprehended at the place of occurrence, there is no material suggesting the complicity of the petitioner in the present crime. It is also submitted that the petitioner having fair antecedent, is in custody since 18.02.2022 and after completion of the investigation, charge-sheet has been submitted. It is further submitted that there is no compliance of Section 100 of the Cr.P.C., apart from the defiance of Sections 81 and 82 of the



Bihar Prohibition of Excise Act, 2016.

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 save and except the recovery of the mobile phone, which was used for the conservation with the driver, there is no material against the petitioner and the petitioner having fair antecedent, is in custody since 18.02.2022, let the petitioner, above named, 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 Exclusive Special Judge-I, Samastipur in connection with Bangra P. S. Case No. 18 of 2022, 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.

(Harish Kumar, J)

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