

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40385 of 2022

Arising Out of PS. Case No.-529 Year-2017 Thana- FATUA District- Patna

Upendra Yadav @ Upendra Prasad Yadav, Son of Ram Prasad Yadav @ Ram Prasad Ray @ Ram Prasad Gop, R/O Village- Mirzapur, P.S.- Fatuha, District- Patna. ... Petitioner/s

Versus

The State of Bihar ... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vijay Anand, Advocate
For the Opposite Party/s : Mr. Bishweshwar Ram, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 07-09-2022 Today this case has been listed on priority basis, on the motion slip filed by the learned counsel for the petitioner.

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. Vijay Anand, learned counsel for the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Fatuha P.S. Case No. 529 of 2017 registered for the offences punishable under Section 120(B) of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

Allegation against the petitioner is to be engaged in the trade of illicit liquor. It is alleged that the police on a secret information that the co-accused Subhash Yadav and Rajesh Rai



brought illicit liquor in a Pick-up Van and the petitioner, who is the owner of the Pick-up Van, was engaged for carrying Indian made foreign liquor from the Pick-up Van to some other place. On search 288 litres of Indian made foreign liquor was recovered from the Pick-up Van.

Learned counsel for the petitioner submits that the petitioner has neither any concern with the Pick-up Van nor with the illicit liquor. He next submits that the petitioner was neither arrested at the spot nor any incriminating material has been recovered from his person or possession and only because of his past criminal antecedent, his name has been implicated in this case, moreover, there is no compliance of Section 100 of the Code of Criminal Procedure. He lastly submits that the petitioner is in custody since 29.05.2022 and the investigation of the crime is already completed and the charge-sheet has been submitted.

On the other hand, learned counsel for the State opposes the bail application and submits that the petitioner is found involved in three other criminal cases.

In response to the aforesaid submission, learned counsel for the petitioner submits that the petitioner is on bail in all the three cases.



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 from his person or possession and moreover the investigation of the crime is already completed and the charge-sheet has been submitted, 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 Special Judge, Excise Act, Patna City, Patna in connection with Fatuha P.S. Case No. 529 of 2017, 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 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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