

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41512 of 2022

Arising Out of PS. Case No.-189 Year-2022 Thana- AMARPUR District- Banka

Changuri Yadav Son of Naresh Yadav Resident of village - Mohanpur, P.S.-
Rajoun, District - Banka.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 11-10-2022 Heard learned counsel appearing on behalf of the
petitioner and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioner seeks bail in connection with Amarpur
P.S. Case No. 189 of 2022 registered for the offence under
Sections 272, 273, 302, 328, 325 and 34 of the Indian Penal
Code, 1860 and Sections 33, 34, 37(b) of the Bihar Prohibition
and Excise Act, 2018.

The accused/petitioner is named in the F.I.R. and is in
custody since 04.04.2022.

The allegation against the petitioner is to involve in
trade/business of spurious liquor where after consumption, two
persons died whereas, one person namely, Kanhai Tanti lost his



vision.

Learned counsel appearing on behalf of the petitioner submitted that the basis of entire implication is heresay input of one Kanhai Tanti, who lost his vision after consumption of alleged spurious liquor. It is also pointed out that Para 87 of the case diary where, no evidence of alcohol was noticed by doctors while examining said Kanhai Tanti. It is also pointed out that the provision of Section 302 of the Indian Penal Code is not applicable in this case as ingredient of intention to cause death is absent. It is also submitted that in want of postmortem report it cannot be said that death was caused due to consumption of spurious liquor as alleged, particularly under the circumstances when no evidence of liquor was found on the medical examination of Kanhai Tanti, whose statement is the basis of entire prosecutions. While concluding the argument, it has been submitted that investigation of this case has been completed, where charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, while opposing the prayer of bail fairly conceded the fact that postmortem was not conducted upon deceased, who alleged to die after consumption of liquor.

Considering the facts and circumstances as mentioned



above, as medical examination of Kanhai Tanti negate any evidence regarding presence of alcohol, whose statement is the basis of entire implications coupled with the fact that charge-sheet has been submitted, let the petitioner, above named, is directed to be released on bail in connection with Amarpur P.S. Case No. 189 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-II, Banka/concerned Court, subject to the conditions as follows:

“(i) That petitioner shall not involve in the similar nature of offence till the conclusion of trial, failing which, the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioner.

(ii) Accused/Petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner duly



supported by the documents.

(iii) That one of the bailors shall be Kanhaiya Yadav, who is the brother-in-law of the petitioner and deponent of the present bail petition.”

The physical presence of I.O. of this case before this Court is dispensed with accordingly.

(Chandra Shekhar Jha, J)

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