

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52142 of 2021

Arising Out of PS. Case No.-45 Year-2020 Thana- ATHMALGOLA District- Patna

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JIVACH KUMAR @ SONU BIHARI @ LAMBUA S/o RAM NARESH
MAHTO R/o VILLAGE-NANDANI, P.S-MOHIUDDIN NAGAR,
DISTRICT-SAMASTIPUR.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dr. Om Prakash Om, Adv.

For the Opposite Party/s : Mr. Sharda Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 05-01-2022 Let the defects, as pointed out by the office, be removed within four weeks of starting of Court proceeding in physical mode in normal course.

Heard learned counsel for the petitioner and the learned A.P.P. for the State.

The petitioner seeks bail in connection with Special Case No. 1893 of 2020 arising out of Athmalgola P.S. Case No. 45 of 2020 registered for the offence under Section 30(a) of the Bihar Prohibition and Excise Act.

Recovery is of 4442 liters of foreign liquor.

Learned counsel appearing for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. In fact, the petitioner has not been named in the F.I.R. and merely on the basis of confessional statement of co-accused,



namely, Awanish Kumar @ Avinash Kumar, who has been granted bail by a co-ordinate Bench of this Court vide order dated 16.11.2021 passed in Cr. Misc. No. 22443 of 2021, he has been apprehended in this case. Nothing has been recovered from the conscious possession of the petitioner rather the alleged recovery has been made from one Truck. Neither the petitioner happens to be driver of the alleged vehicle nor he is the owner of the said Truck in question. He has no concern with the alleged recovery and the vehicle. Moreover, the co-accused, namely, co-accused, namely, Shatrudhan Mahto @ Shatudhan Kumar, having more or less similar allegation, has already been granted bail by this Court vide order dated 10.12.2021 passed in Cr. Misc. No. 45439 of 2021. The petitioner is rotting in judicial custody since 24.05.2021.

Learned A.P.P. for the State has opposed the prayer for bail of the petitioner and submits that the petitioner carries one more case other than the present one.

Considering the facts and circumstances of the case, let the, above named, petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise, Patna in connection with Special Case No. 1893 of 2021 arising out of Athmalgola P.S. Case No. 45 of 2020 with the following conditions:-



(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be canceled by the Court below.

(2) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

And, further condition that 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 step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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