

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41013 of 2022

Arising Out of PS. Case No.-72 Year-2021 Thana- KHAGARIA District- Khagaria

ANAND SANTOSH @ BABUA CHAUDHARY S/O SANJAY KUMAR @
SANJAY CHOUDHARY Resident of village- Rahimpur Charkhutti, P.S.-
Khagaria Muffasil, District- Khagaria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ramesh Kumar Agrawal, Advocate.

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

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 28-09-2022 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. Ramesh Kumar Agrawal, 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 Khagaria Muffasil P. S. Case No. 72 of
2021 (Special Case No. 638 of 2022), registered for the offences
punishable under Section 30 (a) of the Bihar Prohibition and
Excise (Amendment) Act, 2018.

As per the prosecution case, it is alleged that the



police on a secret information that co-accused Vishal Choudhary engaged in trafficking of illicit wine, raided the place of occurrence and on search, altogether 882 litres illicit Indian made foreign liquor was recovered. It is also alleged that on noticing the police party, two persons including the petitioner succeeded in fleeing away.

Learned counsel appearing on behalf of the petitioner submitted that the petitioner was neither apprehended at the spot nor any incriminating material has been recovered from his conscious or constructive possession. It is also submitted that from the F.I.R., it would be evident that the alleged recovery has been made from an agriculture field of one Vishal Choudhary, which is an open place and accessible to all and so far Vishal Choudhary is concerned, he has already been granted anticipatory bail by learned coordinate Bench of this Hon'ble Court in Cr. Misc. No. 38381 of 2021 vide order dated 07.12.2021. It is last submitted that the petitioner is in custody since 18.04.2022 and now the investigation of the crime is already completed and the charge sheet has been submitted.

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 taking into account the fact that the petitioner was neither apprehended at the spot nor any incriminating material has been recovered from his conscious or constructive possession and moreover, the accused person, from whose field the alleged recovery has been made, has already been granted anticipatory bail by learned coordinate Bench of this Hon'ble Court, 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 Special Judge Excise 1st Khagaria in connection with Khagaria Muffasil P. S. Case No. 72 of 2021 (Special Case No. 638 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.

- (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 step for cancelling 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.

(Harish Kumar, J)

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