

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42197 of 2022

Arising Out of PS. Case No.-222 Year-2021 Thana- MADANPUR District- Aurangabad

RAKESH KUMAR @ RAJESH KUMAR @ RAJESH KUMAR YADAV
S/O CHHOTELAL YADAV Resident of village- Badal Bigha, P.S.-
Madanpur, District- Aurangabad

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Krishna Prasad Singh, Sr. Advocate.

For the Opposite Party/s : Mr. Pradeep Narain Kumar, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 30-09-2022 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. Krishna Prasad Singh, learned senior counsel for the petitioner as well as learned Additional Public Prosecutor for the State through video conference.

The application for grant of bail to the petitioner, above named, who has been made accused and put behind the bar in connection with Madanpur P. S. Case No. 222 of 2021 registered for the offences punishable under Section 30 (a) of the Bihar Prohibition and Excise Act.

As per the prosecution case, it is alleged that the police, on a secret information that some persons are indulged in



trade of illicit liquor, seized an Indica Car bearing registration no. JH-01M-2015, however, on noticing the police party two persons managed to flee away. On search, altogether 336 litres Indian made foreign liquor was recovered.

Learned senior 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 person or possession, however, only on account of past criminal antecedent in similar nature of crime, the name of the petitioner has been implicated in this case. It is also submitted that the name of the petitioner has been disclosed by the local Choukidar and save and except the disclosure made by the local Choukidar, there is no other material suggesting the complicity of the petitioner in the present crime. Co-accused person having identical allegation has already been granted anticipatory bail by learned coordinate Bench of this Hon'ble Court in Cr. Misc. No. 65365 of 2021 vide order dated 01.04.2022. It is last submitted that the petitioner is in custody since 29.06.2022 and now investigation of the crime is already complete and the charge-sheet has been submitted.

On the other hand, learned APP for the State opposes the bail application.



Having considered 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 co-accused person, having identical allegation, has already been granted anticipatory bail by learned coordinate Bench of this Hon'ble Court and the petitioner is in custody since 29.06.2022, let the petitioner, above named, 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, I, Aurangabad in connection with Madanpur P. S. Case No. 222 of 2021, 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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