

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43171 of 2022

Arising Out of PS. Case No.-286 Year-2021 Thana- BARHIYA District- Lakhisarai

Md. Azhar @ Md. Asharuddin @ Sufian, Son of Md. Aslam, Resident of
Village - Khutha Dih, P.S.- Barhiya, District - Lakhisarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Murari Narain Chaudhary, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 30-09-2022 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. Murari Narain Chaudhary, learned counsel
for the petitioner and learned APP for the State, through video
conferencing.

The petitioner seeks regular bail, who is in custody in
connection with Barhiya P.S. Case No. 286 of 2021 registered
for the offence punishable under Section 30(a) of the Bihar
Prohibition and Excise Act, 2018.

The allegation against the petitioner is to be engaged
in business of contraband liquor. The police on a secret
information raided the house of his co-villager 'Sudhir Tanti'
and in course of search, total 589.125 litres of Indian made
foreign liquor was recovered. It is also alleged that the petitioner



used to store the liquor by taking advantage of abandoned house.

Learned counsel appearing on behalf of the petitioner submits that from the FIR, it would be evident that the alleged recovery has been made from an abandoned house of Sudhir Tanti and the petitioner has neither any concern with the house nor with the illicit wine. He next submits that only because of the past criminal antecedent of the petitioner, his name has been implicated in this case on suspicion which also shows the high-handedness of the police personnel. He next submits that there is non compliance of Section 100 of the Cr.P.C., apart from defiance of Sections 81 and 82 of the Bihar Prohibition and Excise Act. He further submits that the petitioner was neither apprehended at spot nor any incriminating material has been recovered and so far the other cases besides the present one are concerned, the petitioner is on bail in all the other cases. He lastly submits that the petitioner is in custody since 26.03.2022 and now the investigation of the crime is already complete and charge-sheet has been submitted.

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

Regard being had to the submission made on



behalf of the parties and considering the fact that the alleged recovery has been made from a deserted house of Sudhir Tanti and, moreover, the petitioner was neither apprehended at spot nor any incriminating material has been recovered and he is in custody since 26.03.2022, 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 Additional District and Sessions Judge IV cum Special Judge Excise I, Lakhisarai in connection with Barahiya P.S. Case No. 286 of 2021, subject to the condition that one of the bailors will be the close relatives 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 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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