

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42303 of 2022

Arising Out of PS. Case No.-59 Year-2021 Thana- BISHUNPUR District- Darbhanga

HITESH KUMAR @ HEMKANT SINGH Son of Late Shashibhushan Singh
Resident of village - Rampurdih, P.O. and P.S.- Bishanpur, District -
Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Santosh Kumar

For the Opposite Party/s : Mr.Gauri Shankar Gupta

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

3 15-09-2022 Learned counsel for the petitioner has filed
supplementary affidavit bringing on record criminal antecedent
of the petitioner.

Let the defect(s), as pointed out by the office, be
removed within a period of four weeks from today.

Heard learned counsel for the petitioner and learned
A.P.P. for the State in virtual court proceeding.

The petitioner seeks bail in connection with Bishunpur
P.S. Case No. 59 of 2021 registered for the offences punishable
under Sections 272, 273 of the I.P.C. and Sections 30(a) of
Bihar Prohibition and Excise Amendment Act, 2016.

As per prosecution case, there is alleged recovery
of 1694 litres foreign liquor from the container in question.



Petitioner and others fled away from the place of occurrence.

Learned counsel for the petitioner submits that petitioner is in custody since 11.04.2022 and bears criminal antecedent of six cases out of which three are of similar nature. Charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence. He further submits that nothing has been recovered from the conscious possession of the petitioner and he has been falsely implicated in this case. Petitioner was neither owner nor driver of the said container. Petitioner has no concerned with the alleged liquor. Petitioner is not apprehended on spot. There is no compliance of Section 100 Cr.P.C.

The learned A.P.P. for the State opposes the prayer for bail of the petitioner.

Considering the facts and circumstances of the case, period of custody, petitioner is not apprehended on the spot, charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence and also taking into consideration the material available on record, let the petitioner above named be released on bail, **after framing of charge** on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the



satisfaction of learned Exclusive Special Excise Court No 1, Darbhanga in connection with Bishunpur P.S. Case No. 59 of 2021, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) 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.

(Alok Kumar Pandey, J)

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