

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43606 of 2022

Arising Out of PS. Case No.-2 Year-2021 Thana- KOCHADHAMAN District- Kishanganj

Murshid Alam, S/o Late Md. Aalim, R/o Village- Falsara, P.S.- Dalkola,
District- Uttar Dinajpur (West Bengal)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Radha Mohan Singh, Advocate

For the Opposite Party/s : Mr. Abhay Kumar, 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. Radha Mohan Singh, learned counsel for the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Special Case No. 04 of 2021, arising out of Kochadhaman P.S. Case No. 02 of 2021, registered for the offences punishable under Sections 30(a), 35, 36 and 41 of the Bihar Prohibition and Excise Act, 2016.

The police in course of vehicle checking, apprehended a Mahindra Supro Magic vehicle, bearing registration no. BR 11GD 3955 and an Alto K10 LXI car, bearing registration no. BR 31J-0331 and apprehended two persons. On search, 808.2



litres of illicit foreign liquor was seized from Mahendra Supro Magic and 43.2 litres of foreign liquor was recovered from Alto K10 LXI car. The apprehended persons disclosed that the petitioner was in the business of making illegal liquor with Jonny, who resides at Dalkola, West Bengal and it was sold in the Bihar.

Learned counsel appearing on behalf of the petitioner submits that save and except the disclosure made by the apprehended persons, there is no material suggesting the complicity of the petitioner in the crime. He next submits that neither the petitioner is owner of the vehicle nor he has anyway concern with the illicit wine. He further submits that only because of multiple criminal antecedent of the petitioner registered in different districts, his name is being implicated in one and another criminal cases by the police and the present case is also an instance of such practice. He next submits that the petitioner is not even named in the F.I.R., however his name figured in the supervision note of SDPO, Kishanganj, as the petitioner is said to be the friend of Jonny, who is named in the F.I.R. He next submits that the investigation of the crime is complete and charge-sheet has been submitted and the criminal antecedent of a person cannot be a sole ground to keep him



behind the bar for an indefinite period. The petitioner is in custody since 09.05.2022.

On the other hand learned APP for the State vehemently opposes the bail application and submits that the petitioner is named in altogether 22 cases, pending in different districts.

Regard being had to the submissions made on behalf of the parties and considering the fact that investigation of the crime is already complete and charge-sheet has been submitted, apart from the criminal antecedent of a person cannot be a sole ground to keep him behind the bar for an indefinite period and there is no likelihood of commencement of trial in near future, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Additional sessions Judge-II-cum-Special Judge (Excise), Kishanganj in connection with Special Case No. 04 of 2021, arising out of Kochadhaman P.S. Case No. 02 of 2021, subject to the condition that one of the bailors will be the local residents with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.



(ii) He will remain physically 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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