

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43505 of 2022

Arising Out of PS. Case No.-222 Year-2019 Thana- BAISI District- Purnia

NANKI SAH @ GOPAL KUMAR SAH Son of Doman Sah @ Doman Saha
Resident of village- Farasara, P.s- Dalkhola, Dist- Uttar Dinajpur, West
Bengal

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Arjun Prasad

For the Opposite Party/s : Mr.Rabindra Kumar

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 30-08-2022 Learned counsel for the petitioner is permitted to
make necessary correction in para 1 of the petition.

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.

The petitioner seeks bail in connection with Baisi
P.S. Case No. 222 of 2019 registered for the offences punishable
under Sections 272, 273 of the I.P.C. and Sections 30(a), 33, 41,
47 of the Bihar Prohibition and Excise Act, 2016.

As per prosecution case, there is alleged recovery
of 6600 litre illicit spirit from the truck in question and
apprehended co-accused Md. Shamse Alam disclosed the name



of the petitioner to this extent that alleged illicit spirit was loaded by the petitioner on truck in question.

Learned counsel for the petitioner submits that petitioner is in custody since 30.03.2022 and bears criminal antecedent of seven cases. Charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence. He further submits that petitioner is not apprehended on the spot. Petitioner has no concern with the alleged recovered spirit. Nothing has been recovered from possession of the petitioner. Co-accused Md. Samshe Alam who was apprehended on the spot, has already been granted bail by the co-ordinate Bench of this court vide Cr. Misc. No. 69973 of 2019 and the case of present petitioner stands on better footing.

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, charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence, petitioner is not apprehended on the spot 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 Judge, Court No. 1, Purnea/concerned court in connection with Baisi P.S. Case No. 222 of 2019, 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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