

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44731 of 2022

Arising Out of PS. Case No.-410 Year-2019 Thana- SAHEBGANJ District- Muzaffarpur

Gauri Mukhiya, Son of Jaleshwar Mukhiya, Resident of village - Bangra
Nizamat, P.S.- Sahebganj, District - Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar, Advocate

For the Opposite Party/s : Mr. Satyendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 14-10-2022 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. Manoj Kumar, 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 Sahebganj P.S. Case No. 410 of 2019 registered for the offences punishable under Sections 272, 273 of the Indian Penal Code and Sections 30(a)(d), 41(1) of the Bihar Prohibition and Excise Act.

The allegation against the petitioner is to be engaged in manufacturing of illicit wine, the police conducted raid, however, on noticing the police party all of them succeeded in



fleeing away. It is further alleged that the name of the petitioner and other persons have been disclosed by local people. On search, total 35 liters of illicit country made wine and 200-300 liters solution of Mitha and Mahua was recovered, apart from other utensils and other articles for manufacturing of wine.

Learned counsel appearing on behalf of the petitioner submits that the petitioner was neither apprehended at spot nor any incriminating material has been recovered from his person or possession. From the FIR, it would be evident that the alleged recovery has been made from an open place, accessible to all. He further submits that in fact only on account of one past criminal antecedent of similar nature, his name has been implicated in this case on suspicion. He next submits that co-accused person, having identical allegation, has already been allowed the privilege of bail by learned co-ordinate Bench of this Court in Cr. Misc. No. 37439 of 2020. He lastly submits that the petitioner is in custody since 28.03.2022 though 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 submissions made on



behalf of the parties and considering the fact that the petitioner was neither apprehended at spot nor any incriminating material has been recovered from his person or possession and moreover, the person, having identical allegation, has already been allowed the privilege of bail and this petitioner is in custody since 28.03.2022, 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 Special Judge Excise II, Muzaffarpur in connection with Sahebganj P.S. Case No. 410 of 2019 , 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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