

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45113 of 2022

Arising Out of PS. Case No.-339 Year-2022 Thana- BODHGAYA District- Gaya

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Nauseb Khan, son of Md. Tauhid Khan, Resident of Village- Gewal Bigha,
P.S.- Rampur, District- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Priya Ranjan, Advocate

For the Opposite Party/s : Mr. Md. Matloob Rab, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 30-09-2022 Today this case has been listed on priority basis, on the motion slip filed by the learned counsel for the petitioner praying therein that that the wife of the petitioner and his nine months son are seriously ill and under treatment and there is no one to take care of the wife and his son.

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. Priya Ranjan, 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 Bodh Gaya P.S. Case No. 339 of 2022 registered for the offences punishable under Sections 467, 468,



470, 120(B) of the Indian Penal Code and Section 30 (a) of the Bihar Prohibition and Excise (Amendment) Act, 2022.

As per prosecution case, it is alleged that the police on a confidential information that some persons are engaged in the trade of illicit wine and have concealed huge quantity of wine, raided the place of occurrence and apprehended four persons, namely, Sudip Kumar, Niraj Kumar, Md. Aamir and Anand Kumar and on search 4077 litres of illicit wine was recovered. It is also alleged that some apparatus used for manufacturing medicine were also recovered. The apprehended co-accused, namely, Sudip Kumar, also disclosed the name of other co-accused persons, including the petitioner.

Learned counsel appearing on behalf of the petitioner submits that from the F.I.R., it would be evident that the petitioner was neither apprehended at the spot nor any incriminating material has been recovered from his possession. He further submits that the petitioner has neither any concern with the co-accused persons nor with the incriminating articles, which are said to have been recovered from the place of occurrence. He next submits that petitioner is languishing in jail since 15.06.2022. He lastly submits that now the investigation of the crime is already complete and charge-sheet has been



submitted and they undertake to cooperate with the trial.

On the other hand, learned APP for the State opposes the bail application and submits that a huge quantity of illicit Indian made foreign liquor and articles as well as apparatus used for preparing medicines was recovered and from the materials available on record, the complicity of the petitioner in the crime cannot be ruled out.

Regard being had to the submissions made on behalf of the parties and considering the fact that the petitioner was neither apprehended at the spot nor any incriminating material has been recovered and there is no material, which suggests the complicity of the petitioner in the present crime and he is in custody since 15.06.2022, 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 Exclusive Special Excise Court No.1, Gaya in connection with Bodh Gaya P.S. Case No. 339 of 2022, 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 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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