

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48360 of 2022

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

Prakash Kumar Son Of Late Kanhaiya Prasad @ Late Kanhay Prasad,
Resident Of Mohalla- Makhloat Ganj, Gumti No. 1 P.S- Kotwali, Dist- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 49105 of 2022

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

Md. Aamir S/O Md. Aziz, R/O Mohalla- Head Manpur, P.S.- Buniyadganj,
District- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 48360 of 2022)

For the Petitioner/s : Mr.Durgesh Nandan, Advocate

For the Opposite Party/s : Mr.Yogendra Kumar Singh, APP

(In CRIMINAL MISCELLANEOUS No. 49105 of 2022)

For the Petitioner/s : Mr.Iqbal Asif Niazi, Advocate

For the Opposite Party/s : Mr.Shaheen Begum, APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 11-11-2022 Let the defect, if any, be removed within two weeks
from today.

Heard learned counsels for the petitioners and learned
A.P.P. for the State through virtual mode.

The petitioners seek regular bail in connection with
Bodhgaya P.S. Case No. 339 of 2022 lodged under Sections

467, 468, 470 and 120(B) of the Indian Penal Code and section 30(a) of the Bihar Prohibition and Excise Act, 2022.

As per prosecution case, total recovery of 4077 liters of wine is the subject matter of the present case.

Learned counsels for the petitioners submit that there were in total 17 persons were made accused in the present case. Counsel further submits that the alleged recovery was made at three different places i.e. from Xylo vehicle 360 liters recovered and the rest wine was alleged to be recovered from a godown and in a separate room near godown.

Learned counsel for the petitioner of Cr. Misc. No. 48360 of 2022 submits that petitioner is neither owner nor driver nor *khalasi* of vehicle or the said room. He further submits that his name has been figured in this case by virtue of the confessional statement of the co-accused. He further submits that petitioner is in custody since 15.06.2022 and he has two criminal antecedents and in both the cases he is on bail.

Learned counsel for the petitioner of Cr. Misc. No. 49105 of 2022 submits that the petitioner is neither owner of the vehicle nor the owner of the said godown or room. He further submits that petitioner is said to be the driver of the said vehicle and completely unaware that what has been kept in the vehicle.

As per the direction of the owner of the vehicle, petitioner was driving the vehicle and directed to send the vehicle at a particular destination. Counsel further submits that antecedent of the petitioner is clean and he is in custody since 15.06.2022.

Both counsels submit that charge sheet has already been filed in this case. It has been further submitted that the other co-accused persons similarly situated have been granted bail by the Co-ordinate Bench of this Court vide orders dated 29.09.2022, 30.09.2022, 14.10.2022 and 21.10.2022 passed in Cr. Misc. Nos. 48570 of 2022, 45113 of 2022, 45413 of 2022 and 46856 of 2022 respectively.

Learned counsel for the State opposes the prayer for bail.

In the present facts and circumstances of this case and the submissions made above, let the petitioners above named, be granted bail on furnishing bail bonds of Rs.30,000/- (Rupees Thirty thousand) each with two sureties of the like amount each to the satisfaction of learned Exclusive Special Excise Court No.1, Gaya in connection with Bodygaya P.S. Case No. 339 of 2022, subject to the conditions as laid down under Section 437(3) of Cr.P.C. with other following conditions:

A. The petitioners shall support in trial and shall

appear physically before the lower court on each and every date fixed, in case of non-appearance for two consecutive dates without sufficient cause, shall be resulted into cancellation of their bail bonds.

B. One of the bailors shall be close relative who shall file an affidavit before the court about his relationship with the petitioners.

C. The petitioners shall file an affidavit at the time of furnishing of bail bond that they shall not involve in such criminal activity during the continuance of present bail bond, violation of this condition shall be resulted into cancellation of their present bail bonds.

With this observation, the bail applications stand allowed.

(Dr. Anshuman, J.)

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