

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52789 of 2022

Arising Out of PS. Case No.-236 Year-2020 Thana- SAHEBPUR KAMAL District-
Begusarai

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Deepak Kumar @ Deepak Yadav @ Dipak Kumar Son of Ashok Yadav @
Ashok Prasad R/o Ward No. 4, Heera Tol, Rahimpur, Raghunathpur-Barari,
P.S.- Sahebpur-Kamal, District- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Pritish Kumar Lal, Advocate.

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

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 23-11-2022 Heard Mr. Pritish Kumar Lal, learned counsel

appearing on behalf of the petitioner and Mr. Yogendra Kumar

Singh, learned A.P.P. for the State.

As prayed for by learned counsel appearing on behalf

of the petitioner, he is permitted to make necessary correction in

Para-3 of the bail application.

The petitioner seeks regular bail in connection with

Sahebpur Kamal P.S. Case No. 236 of 2020 for the offence

punishable under Sections 30(a) and 32 of the Bihar Prohibition

and Excise Act.

Prosecution case, in brief, is that the house of the

petitioner and co-accused Sarang Yadav was raided and

altogether 180 litres and 72 litres of foreign liquor were



recovered from their house respectively and 24 litres of foreign liquor was also recovered from the motorcycle parked at the house of Sarang Yadav.

Learned counsel appearing on behalf of the petitioner submits that the petitioner is innocent and he has falsely been implicated in this case. He further submits that seizure list was not prepared in the manner prescribed under the Bihar Prohibition and Excise Act, 2016 and Rules 2018. In such view of the matter, the entire seizure effected by the authorities vitiates in the eye of law. Petitioner has remained in custody since 15.06.2021 and no progress has taken place in conduct of the trial. It is further submitted that the petitioner had earlier moved this Court for grant of anticipatory bail vide Cr. Misc. No. 1048 of 2021. Since the petitioner was arrested, he sought permission of this Court to withdraw the bail application with liberty to file regular bail before this Court. The petitioner filed Cr. Misc. No. 40839 of 2021 for regular bail, but the same was withdrawn by him as incorrect information was given in Para-3 of the bail application relating to criminal cases pending against the petitioner. Petitioner is now before this Court disclosing the criminal cases pending against him as it would appear from Para-3 of the bail application which are as under:

(i) A proceeding under Section 107 of the Code of



Criminal Procedure.

(ii) Sahebpur Kamal P.S. Case No. 93 of 2016 for offence under Section 341, 323 and 504/34 of the Indian Penal Code.

(iii) Sahebpur Kamal P.S. Case No. 200 of 2020 for offence under Section 30(a) of the Bihar Prohibition and Excise Act.

This Court finds altogether 180 litres of different brands of foreign liquor was recovered from the house of the petitioner, but the seizing authority has deliberately left lacuna in conduit of the seizure by not making any independent witness or any of the family members of the petitioner to be witness to the seizure list.

Considering the aforementioned facts and circumstances of the case, the petitioner, above named, who is in custody since 15.06.2021, is directed to be enlarged on bail on furnishing bail bond of **Rs.25,000/- (Rupees twenty five thousand)** with two sureties of the like amount each to the satisfaction of the learned Special Judge, Excise Court No.2, Begusarai in connection with Sahebpur Kamal P.S. Case No. 236 of 2020, subject to the following conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(2) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.



(3) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(4) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bonds.

(Purnendu Singh, J)

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