

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52834 of 2022

Arising Out of PS. Case No.-444 Year-2019 Thana- BARHARIA District- Siwan

SHIVJI PASI @ SHIVJI CHAUDHARY SON OF LATE NATHUNI PASI
R/O VILLAGE - BISHAMBHARPUR, MAJHAGARH, DISTRICT-
GOPALGANJ

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Gajendra Kumar Singh

For the Opposite Party/s : Mr.Binod Kumar

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 14-10-2022 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 through virtual mode.

The petitioner seeks bail in connection with Barharia P.S. Case No. 444/2019 registered for the offences punishable under Sections 272, 273, 308/34 of the Indian Penal Code and Sections 30(a), 41(1) of the Bihar Prohibition and Excise Act, 2016.

As per prosecution case, there is alleged recovery of total 1356.480 liters foreign liquor from one Scarpio vehicle and one motorcycle in question.

Learned counsel for the petitioner submits that



petitioner is innocent and has falsely been implicated in this case. The petitioner is not named in the FIR. During course of investigation, petitioner was made accused in this case on the ground that the said motorcycle recovered from the place of occurrence, belongs to the petitioner. In fact, Md. Sahsan, the co-villager of the petitioner has borrowed his motorcycle to go to Barharia Bazar to purchase some medicine for his wife, but he misused the same. The said Scarpio vehicle does not belong to the petitioner. The petitioner is languishing in custody since 30.07.2022 and bears no criminal antecedent. He further submits that the petitioner was neither apprehended at the place of occurrence nor said liquor had been recovered from his conscious possession. Charge sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

Considering the facts and circumstances of the case, period of custody, petitioner is not named in the FIR, charge sheet has already been submitted in this case and there is no likelihood of tampering with the prosecution evidence, keeping in view clean antecedent of petitioner and also taking into



consideration the material available on record, let the petitioner above named 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 Judge-I, Siwan in connection with Barharia P.S. Case No. 444/2019, 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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