

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51586 of 2022

Arising Out of PS. Case No.-208 Year-2022 Thana- PATEPUR District- Vaishali

NITISH KUMAR, S/o Late Rajnarayan Rai @ Rajnarayan Yadav R/o village-
Ladaho, P.S.- Baligaon, District- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Pushpa Sinha.1,APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 22-11-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

Let the defect (s), as pointed out by the office, be
removed within a period of four weeks.

In the present case, the petitioner seeks bail in
connection with Patepur P.S. Case No. 208 of 2022 registered
for the alleged offences under Section 30(a), 32(ii), 38(ii) and
41(i) of the Bihar Prohibition and Excise Act, 2016.

As per prosecution case, recovery of 1057.32 liters
of India made foreign liquor was made from a number of
vehicles. In the same transaction, from the vehicle of the
petitioner, a motorcycle, 18 liters of illicit liquor was recovered.
The petitioner was apprehended from the spot.

Learned counsel for the petitioner submits that

petitioner is innocent and has been falsely implicated in this case. Learned counsel further submits that nothing incriminating has been recovered from the conscious possession of the petitioner. The petitioner was apprehended from the spot by the police. However, the seizure list does not bear the signature of the petitioner, which violates the mandate of Section 100(6) of the Cr.P.C. The seizure list has not been prepared before independent witnesses which again is contrary to Section 100(4) of the Cr.P.C. Charge sheet has been submitted in this case and the petitioner is in custody since 27.07.2022. The petitioner has got clean antecedent.

Learned A.P.P. for the State opposes the prayer for bail of the petitioner.

Having regard to the facts and circumstances and submission made on behalf of the parties and considering the submission of charge sheet along with period of custody of the petitioner and his clean antecedent, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Excise Court-IIInd-cum-Additional District and Sessions Judge, Hajipur, Vaishali in connection with Patepur P.S. Case No. 208 of 2022,

subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions:

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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