

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52418 of 2022

Arising Out of PS. Case No.-56 Year-2022 Thana- VIDYAPATINAGAR District- Samastipur

VIKASH KUMAR @ VIKASH RAI Son of Sri Ram Lal Rai Resident of
Ward No. 12, Village- Alampur, PoO- Garhsisai, P.S- Vidyapatinagar and
Dist- Samastipur Bihar- 848503

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Aditya Prakash Sahay, Advocate.

For the Opposite Party/s : Mr. Arun Kumar Pandey, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 28-09-2022 Today, the matter is being listed on the priority basis on the urgent motion slip filed by the learned counsel for the petitioner praying therein that the petitioner is a student and his examination for third semester is scheduled on 14.10.2022.

Learned counsel for the petitioner is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Aditya Prakash Sahay, learned counsel for the petitioner as well as learned Additional Public Prosecutor for the State.

The application for grant of bail to the petitioner, above named, who has been made accused and put behind the bar in connection with Vidyapatinagar P. S. Case No. 56 of 2022



registered for the offences punishable under Section 30 (a) of the Bihar Prohibition and Excise Act.

As per the prosecution case, it is alleged that the police, on a secret information that the petitioner is indulged in keeping illicit liquor on Janera field, raided the place of occurrence. On search, altogether 1672.56 litres of Indian made foreign liquor was recovered. It is also alleged that on noticing the police party, the accused persons succeeded in fleeing away.

Learned counsel appearing on behalf of the petitioner submitted that the petitioner was neither apprehended at the spot nor any incriminating material has been recovered from his person or possession. It is also submitted that so far the recovery is concerned, the same has been made from Janera field, which is an open place and accessible to all and the petitioner cannot be made responsible for the same. It is further submitted that only because of past criminal antecedent of the petitioner, his name has been implicated in this case, though, there is no material suggesting the complicity of the petitioner, apart from there are other infirmities in the preparation of the seizure list and defiance of Sections 81 and 82 of the Bihar Prohibition and Excise Act. It is last submitted that the investigation of the crime is already completed and the charge



sheet has been submitted, though the petitioner is in custody since 16.05.2022.

On the other hand, learned APP for the State opposes the bail application.

Regard being had to the submissions made on behalf of the parties and taking into account the fact that the petitioner was neither apprehended at the spot nor any incriminating material has been recovered from the conscious or constructive possession of the petitioner and the investigation of the crime is complete, however, there is no likelihood of commencement of the trial in near future, 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 Special Judge Excise Court-I, Samastipur in connection with Vidyapatnagar P. S. Case No. 56 of 2022, subject to the condition that one of the bailors will be the close relative of the petitioner with further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the trial.
- (ii) He will remain 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 step for cancelling of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Harish Kumar, J)

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