

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66829 of 2021

Arising Out of PS. Case No.-349 Year-2020 Thana- BAGHA District- West Champaran

RAKESH YADAV Son of Late Jangali Yadav Resident of Village - Kewatiya
Naraipur, Ward No. 10, P.S. - Bagaha (Patkhauri), District - West Champaran.

... .. Petitioner.

Versus

The State of Bihar

... .. Opposite Party.

Appearance :

For the Petitioner : Mr. Umesh Chandra Verma, Advocate.
For the State : Mr. Md. Mushtaque Alam, A.P.P.

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR
ORAL ORDER

2 03-02-2022 The applicant is seeking out of turn hearing of the instant bail application on the ground of marriage of his sister scheduled to be held on 09.02.2022.

The applicant is an accused in Crime No.349 of 2020 registered with Police Station-Bagaha (Patkhauri) for the offence punishable under Section 414 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

The learned counsel appearing for the applicant argued that the applicant was not even apprehended from the spot and merely on the basis of the confessional statement of the co-accused which is not admissible in law he is languishing behind the bar from 18.06.2021.

The learned A.P.P. opposed the application by contending that huge stock of illicit country made liquor amounting to 266



liters came to be seized on the basis of the secret information and the applicant was one of the persons who flee away from the spot of the incident.

I have considered the submissions so advanced.

According to the prosecution case, on the basis of the secret information that the illicit country made liquor is being stacked in an orchard a raid was conducted. Three persons were apprehended on the spot whereas some managed to escape. The applicant is reported to be one of them, on the basis of the confessional statement of the co-accused, admissibility of which shall be the subject matter of the trial. Prima facie, confession by the co-accused is not admissible in law unless and until it results in any recovery.

From the inspection of the orchard, 266 liters of country made liquor came to be seized. The investigation of the subject crime is over. The applicant is undergoing pretrial detention from 18.06.2021. According to the learned counsel appearing for the applicant only because the applicant is having one criminal antecedent, he is falsely implicated in the subject crime. In this view of the matter, as the investigation is over and the applicant was not apprehended on the spot, I see no reason to deny bail to the applicant and therefore the following



orders:

(i). The application is allowed.

(ii). The applicant/accused in Crime No.349 of 2020 registered with Police Station-Bagaha (Patkhauli) for the offence punishable under Section 414 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act, 2016, be released on bail on executing P.R. bond of Rs.15000/-(Rupees Fifteen Thousand) on furnishing surety of the like amount to the satisfaction of the trial court with the following conditions:

- (I). The applicant should not extend any threat, promise or inducement to the persons acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the Court or to any police officer.
- (II). The applicant should cooperate the trial in expeditious disposal of the trial against him.
- (III). The applicant should not contact the members of the prosecuting party as well as witnesses in this case in any manner till conclusion of the trial.
- (IV). The applicant should not repeat commission of similar offence in future and if he is found to be



involved in commission of similar offence, the
State is at liberty to apply for cancellation of bail
granted to the applicant in the instant case.

The applicant to remove all office objections forthwith
and the Registry to issue the certified copy of this order only
after removal of office objections by the applicant/accused.

(A. M. Badar, J)

P.S./-

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