

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58043 of 2022

Arising Out of PS. Case No.-1069 Year-2021 Thana- HAJIPUR SADAR District- Vaishali

Nanki Sah @ Gopal Sah @ Gopal Kumar @ Gopal Kumar Sah, Son Of Late
Doman Sah, R/O Village- Farasara (DALKHOLA), P.S.- Dalkhola, Distt.-
North Dinajpur, (W.B.)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arjun Prasad, Advocate

For the Opposite Party/s : Mr. Syed Ehteshamuddin, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 19-11-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), if any, 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 Hajipur Sadar P.S. Case No. 1069 of 2021
registered for the alleged offences under Sections 420, 467, 468,
471, 120B of the Indian Penal Code and Section 30(a), 32(ii),
36, 41(i) of Bihar Prohibition and Excise (Amendment) Act,
2018.

As per prosecution case, recovery of 8000 (eight
thousand) liters of spirit was made from a truck and the co-
accused driver Ghanshyam Mishra was arrested. This co-



accused disclosed the name of the petitioner who along with other co-accused handed him over the key of the truck, chalan and his wages.

Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. The petitioner was not arrested from the spot and nothing incriminating has been recovered from the person or possession of the petitioner. The petitioner has no concern with the seized spirit or the truck in which it was being carried. The co-accused driver was granted bail vide order dated 20.05.2022 passed in Criminal Misc. No. 25427 of 2022 by a Co-ordinate Bench of this Court. None of the offences as alleged under the Bihar Prohibition and Excise (Amendment) Act, 2018 is made out against the petitioner as the petitioner has not been found selling, purchasing, manufacturing and supplying the illicit liquor at an unauthorized place within the territory of the State of Bihar. Even if the statement of his driver is taken to be true, the vehicle was loaded in West Bengal where there is no prohibition on liquor. The petitioner is in custody since 23.04.2022 and charge-sheet has been submitted in this case.

Learned APP opposes the submission made on behalf of petitioner submitting that the petitioner is an accused in



altogether eight cases of similar nature.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the fact that the petitioner was not apprehended from the spot and no recovery has been shown from him and further considering the lack of material on record to connect the petitioner with the offence as alleged and also considering the submission of charge-sheet and the period of custody of the petitioner, the petitioner above named is directed to be released on bail on furnishing bail bonds of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Excise Court No.1-cum-Additional Sessions Judge, Vaishali at Hajipur/concerned court in connection with Hajipur Sadar P.S. Case No. 1069 of 2021, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and 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 for 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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