

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68606 of 2021

Arising Out of PS. Case No.-48 Year-2021 Thana- AMAS District- Gaya

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KANHAI BHUIYA @ KANHAI BHUIYAN Son of Late Indradeo Bhuiya
Resident of village - Tinkoni, Budhi Bandh, P.S. Amas, Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Arvind Kumar Singh, Advocate.

For the Opposite Party/s : Mr.Asha Devi, APP.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 20-05-2022 Heard learned counsel appearing on behalf of the

petitioner and learned A.P.P. for the State.

Let the defect(s), if any, be removed within two
weeks of the complete start of the physical Court in normal
course.

The petitioner seeks regular bail in connection with
Amas P.S. Case No. 48 of 2021 for the offence punishable under
Section 33 of the Bihar Prohibition and Excise Act.

The allegation is of recovery of 920 litres of spirit
from the house of the petitioner. Petitioner managed to flee
away and as such he was not apprehended on the spot. Petitioner
was arrested and is in custody since 10.04.2021.

Learned counsel appearing on behalf of the petitioner
submits that the petitioner was not apprehended on the spot



rather he has been made accused in a false case. No recovery has been made from his personal possession. Seizure list was not prepared at the place of occurrence with respect to the alleged recovery to have been made from the house of the petitioner. Seizure list witnesses are police personnel and the same cannot be said to be in accordance with law. Petitioner has clan antecedent and is in custody since 10.04.2021.

Smt. Asha Devi, learned A.P.P. for the State submits that huge quantity of spirit was recovered from the house of the petitioner. She further submits that it has not been stated by the petitioner in any of the paragraph of the bail application that the said spirit which has been recovered from the house of the petitioner is a potable liquor or it is denatured in nature. Hence the petitioner does not deserve to be released on bail.

Considering the aforementioned facts and circumstances of the case and period of custody undergone by the petitioner, without going into the merits of the case, the petitioner, above named, is directed to be enlarged on bail on furnishing bail bond of **Rs.50,000/- (Rupees fifty thousand)** with two sureties of the like amount each to the satisfaction of the learned Addl. Sessions Judge-II cum Special Judge, Excise, Gaya in connection with Amas P.S. Case No. 48 of 2021,



subject to the following conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(2) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

(3) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(4) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bonds.

(5) The court below is directed to verify the criminal antecedent of the petitioner and if it is found that the petitioner is involved in some other cases as what has been stated in Para-3 of the bail petition, this order will automatically loose its force.

Superintendent of Police, Gaya is directed to make an objective determination with respect to the seized spirit measuring 920 litres, as to whether the same was denatured or it was a potable liquor and action be taken against all the persons who are selling it without there being any license, if the spirit



seized is denatured in nature.

Accordingly, this application stands disposed of.

(Purnendu Singh, J)

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