

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57918 of 2022

Arising Out of PS. Case No.-377 Year-2021 Thana- NAWADA District- Nawada

KAUSHAL YADAV S/O SHARWAN PRASAD Resident of village-
Khemchand Bigha, P.S.- Nawada, District- Nawada.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sheo Kumar Prasad

For the Opposite Party/s : Ms.Veena Kumari Jaiswal

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 18-11-2022 Heard learned counsel appearing on behalf of the

petitioner and learned counsel appearing on behalf of the State

through virtual Court proceedings.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioner seeks bail in connection with Nawada
(Town) P.S. Case No. 377 of 2021 registered for the offence
under Sections 33, 34 and 36 of the Bihar Prohibition and
Excise Act, 2018.

The accused/petitioner is not named in the F.I.R. and
is in custody since 07.04.2022.

The allegation against the petitioner is to deal in
business of spurious liquor along with other co-accused persons,
whereafter, consumption of spurious liquor, one person died.



Learned counsel appearing on behalf of the petitioner submitted that petitioner has been falsely implicated in the present case, on the basis of the confessional statement of co-accused, namely, Arvind Yadav, where, in furtherance thereof, nothing incriminating material surfaced/recovered, during course of investigation, which may connect this petitioner, *prima facie*, with the present set of occurrence or allegation of dealing in spurious liquor, as alleged. It is further submitted that petitioner is involved in 19 other similar nature of case, where, in maximum of the cases, the name of the petitioner surfaced on the basis of confessional statement, as of present case, having no evidentiary value over merit of the case. Learned counsel for the petitioner further pointed out as petitioner and other co-accused persons are from same locality and as such talking over mobile phone is very obvious, where mere on the basis of call details, this petitioner cannot be implicated in this case. While concluding the argument, it is submitted that investigation of this case has been completed, for which, charge-sheet has already been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, while opposing the prayer of bail, fairly conceded the fact that petitioner is not named in the FIR.



Considering the facts and circumstances as mentioned above, as nothing incriminating material surfaced/recovered, during course of investigation, which may connect this petitioner, *prima facie*, with the present set of allegation as to deal with spurious liquor coupled with the fact that charge-sheet has already been submitted, let the petitioner, above named, is directed to be released on bail in connection with Nawada (Town) P.S. Case No. 377 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Excise Judge, 1st, Nawada/concerned court, subject to the following conditions:

“(i)That petitioner shall not involve in the similar nature of offence till the conclusion of trial, failing which, the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioner.

(ii) Accused/Petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner duly supported by the documents.



(iii) That one of the bailors of the petitioner shall be deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

S.Katyayan/-

U		T	
---	--	---	--

