

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59208 of 2022

Arising Out of PS. Case No.-163 Year-2022 Thana- RUNISAIDPUR District- Sitamarhi

AVINASH KUMAR, S/o Ramswarth Patel, R/V- Thumma, P.S.- Runisaipur,
Distt- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Aditya Narayan Singh.1, Advocate

For the Opposite Party/s : Mr.Sanjay Kumar Pandey, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 25-11-2022 Heard learned counsel for the petitioner and
learned A.P.P. for the State through virtual court proceeding.

Let the defect (s), 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 Runisaipur P.S. Case No. 163 of 2022
registered for the alleged offences under Sections 30(a), 36
and 41(1) of the Bihar Prohibition and Excise Act.

As per prosecution case, police received secret
information about petitioner and other co-accused persons in
connivance with each other have brought huge quantity of
India made foreign liquor and concealed it in the old house of
the petitioner. A raid was conducted but the co-accused

persons present at the spot fled away from there on seeing the police party. These escaped persons included the petitioner. On search of the house of the petitioner, 1107.97 liters of India made foreign liquor was recovered apart from Aadhar card and HDFC debit card of the petitioner.

Learned counsel for the petitioner submits that petitioner is innocent and has been falsely implicated in this case. The petitioner was not apprehended from the spot and nothing has been recovered from his conscious possession. No occurrence as alleged has ever taken place. The house from which the recovery has been shown does not belong to this petitioner and moreover, the house is situated upon the government land and it is house made of bamboo and it is an open place. The whole prosecution story is doubtful and it is not believable that 11 persons of three villages have been identified by the Chowkidaar while they were fleeing away. The petitioner has been falsely implicated by the chowkidaar in connivance of the police. There is non compliance of Section 100 of the Cr.P.C. Charge sheet has been submitted in this case and the petitioner is in custody since 22.07.2022.

Learned A.P.P. for the State opposes the prayer for bail of the petitioner submitting that the petitioner has got

criminal antecedent.

Having regard to the facts and circumstances and submission 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 also considering the submission of charge sheet along with period of custody of the petitioner, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Excise Court-I, Sitamarhi, in connection with Runisaidpur P.S. Case No. 163 of 2022, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also 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 on 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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