

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.464 of 2022

Arising Out of PS. Case No.-496 Year-2021 Thana- MAHUA District- Vaishali

NIRAJ KUMAR, aged about 21 years, Gender-Male, S/o Late Kripali Rai @ Kripali Ray, R/o Village- Phulbariya, Phulwariya, Mirza Nagar, P.S.- Mahua, District- Vaishali.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Ravish Mishra, Advocate
For the Opposite Party : Mr. Suresh Prasad Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 11-02-2022 Due to the third wave of COVID-19 Pandemic, the matter is being taken up by way of Virtual Court proceeding.

The matter has been listed under the heading 'For Orders' under the orders of Hon'ble the Chief Justice.

Heard learned counsel for the petitioner and learned A.P.P. for the State through Virtual mode.

Learned counsel for the petitioner is directed to remove the defects, as pointed out by the office, within a period of four weeks after restoration of normalcy.

The petitioner is apprehending his arrest in connection with Mahua P.S. Case No. 496/2021, for the offence registered under Sections 30(a), 32(ii)/34(ii), 38(ii), 41(i) of the Bihar Prohibition and Excise (Amendment) Act, 2018 and Sections



272, 273 and 414 of the I.P.C.

The prosecution story, in brief, is that total 118.015 liters wine is recovered.

It has been submitted by learned counsel for the petitioner that the petitioner has falsely been implicated in the present case. There is no allegation of tampering with the witnesses alleged against the petitioner. It is alleged that total 118.015 liters wine is recovered. Out of which, 93.945 liters wine is recovered from two Motorcycles parked by the side of joint house of the petitioner. Motorcycles in question does not belong to the petitioner. Except for this, there is no other substantive evidence to suggest the implication of the petitioner in this case. Nothing incriminating has been recovered from the conscious possession of the petitioner. The petitioner had no knowledge regarding the alleged incident. There is no compliance of Section 100 Cr. P.C.

On behalf of the State, it is submitted that the petitioner is named in the F.I.R/ Complaint Case.

It is necessary to indicate here that this Court while considering the prayer made in the present anticipatory bail application has taken note of the exponential rise in number of covid cases due to outbreak of third wave of Covid-19



pandemic. Further this Court can also not lose sight of the fact that the condition of jails is not conducive and suitable to the present situation which has arisen due to the sudden rise in covid cases.

Considering the aforesaid facts and circumstances, the petitioner, above named, in the event of arrest/surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on his personal bonds to the satisfaction of the learned Additional Sessions Judge-II-cum-Excise Court, Vaishali at Hajipur, in connection with Mahua P.S. Case No. 496/2021, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

Once the normalcy is restored, the petitioner shall furnish bail bonds of Rs. 10,000/-(Rupees Ten Thousand) with two sureties of the like amount each within a period of eight weeks to the satisfaction of the court concerned in connection with the aforesaid case.

(Sudhir Singh, J)

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