

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71569 of 2021

Arising Out of PS. Case No.-1358 Year-2018 Thana- BIHTA District- Patna

Ujjawal Kumar @ Avnish @ Ujjawal Son Of Late Madan Mohan Singh @
Madan Mohan Resident Of Village- Bhelura Rampur, P.S.- Janipur, District-
Patna.

... .. Petitioner

Versus

The State Of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. P.N. Shahi, Sr. Advocate Mr. Sunil Kumar Pathak, Advocate
For the Opposite Party/s :		Mr. Ajay Kumar No. 2, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 16-06-2022 Learned counsel for the petitioner undertakes to
remove all the defects as pointed out by office within four
weeks after start of normal functioning of the Court.

Heard Mr. P.N. Shahi, learned Senior Counsel assisted
by Mr. Sunil Kumar Pathak, learned counsel for the petitioner
and Mr. Ajay Kumar No. 2, learned APP for the State.

Petitioner in the present case is seeking regular bail in
connection with Special Case No. 11609 of 2018 arising out of
Bihta P.S. Case No. 1358 of 2018 registered for the offences
punishable under Section 216 of the Indian Penal Code and
Section 30(a)(b)(c) of Bihar Prohibition and Excise Act, 2016.
He has got 11 criminal antecedents. The petitioner has been
taken on remand in the present case on 28.06.2019.

Learned Senior Counsel for the petitioner submits that



the FIR has been lodged by the SHO of Neura Police Station on the basis of his statement wherein he states that on a secret information that in village Purainia Gram in the house of Navin Kumar @ Balbir Kuumar who happens to be the relative of accused, some criminals had taken shelter. It is alleged that when raid was conducted in the said house, owner of the house namely Navin Kumar @ Balbir was arrested and on search of the house 500 ml country-made liquor was found in Pepsi bottle seized by police in presence of the witnesses. It is then alleged that on interrogation, Navin Kumar @ Balbir disclosed to the police that today Ujjawal Kumar (petitioner) along with his two associates had come but they fled away.

Learned Senior Counsel for the petitioner submits that from the tone and tenor of the FIR itself it is clear that when the SHO raided the house of Navin Kumar, he had not seen anybody fleeing away from the house and if the raid was conducted in presence of the witnesses and this petitioner is said to have fled away, somebody must have identified the petitioner.

Learned Senior Counsel submits that in fact the petitioner has been taken on remand in the present case after he surrendered himself in the court below on 15.04.2019 in connection with Bihta P.S. Case No. 342 of 2019 which was



lodged against unknown under Section 385/387/307/120-B IPC.

Learned Senior Counsel submits that prima-facie there is no material to connect the petitioner with this case which has been lodged under the Excise Act, 2016. In all other cases, the petitioner has been granted bail either by the learned court below or by the Hon'ble High Court. In one of the cases, he has also been acquitted.

Learned APP for the State has opposed the prayer for bail of the petitioner mainly on the ground that the petitioner has got 11 criminal antecedents but his submission has been contested by learned Senior Counsel for the petitioner on the strength of the judgment of the Hon'ble Supreme Court in the case of **Prabhakar Tewari vs. State of U.P.** reported in (2020) **11 SCC 648**. It is submitted that on the face of the facts of the present case and the kind of allegations and the materials, the criminal antecedents alone cannot be a ground to refuse the privilege of bail to the petitioner.

Having regard to the materials noticed hereinabove and the custody of the petitioner in the present case of almost 3 years and also that in all other cases the petitioner is on bail and in the present case there is no submission of the State that his release is likely to interfere with the course of trial or that his



presence may not be secured, this Court directs that the petitioner above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Special Judge Excise, Patna in connection with Special Case No. 11609 of 2018 arising out of Bihta P.S. Case No. 1358 of 2018, subject to the condition as laid down under Section 437 (3) Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take steps for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

The application stands allowed.

(Rajeev Ranjan Prasad, J)

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Note: the ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during pandemic period all concerned shall act on the basis of the copy of the order uploaded on the high court website under the heading 'judicial orders passed during the pandemic period'.

