

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72255 of 2021

Arising Out of PS. Case No.-169 Year-2021 Thana- PHULWARIA District- Begusarai

MITHUN RAI Son of Late Ram Balak Ray Resident of village - Baro
Rampur Tole, Ward No.- 8, P.S.- Barauni, District - Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mukesh Kumar

For the Opposite Party/s : Mr.Pradeep Narain Kumar

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 29-01-2022 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.

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

Heard learned counsel for the petitioner and the State
through virtual mode.

The petitioner is apprehending his arrest in connection
with Phulwaria P.S. Case No. 169 of 2021 registered for the
offence under Sections-188, 120B of the Indian Penal Code and
Section-30(a) of the Bihar Prohibition and Excise Act.

The prosecution case, in short, is that 1620.72 liters



wine is recovered.

It has been submitted on behalf of the petitioner that the petitioner has got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioner. The petitioner has been falsely implicated in the present case. It is alleged that 1620.72 litres wine is recovered from the straw house belonging to the co-accused. The name of the petitioner has transpired in this case on the basis of secret information. Except for this, there is no other substantive evidence to suggest the implication of the petitioner in the present 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 Complaint Case/F.I.R.

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 of the case, the petitioner, above named, in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on his personal bond to the satisfaction of learned Additional Sessions Judge-II-cum-Special Judge, Excise Act, Begusarai in connection with Phulwaria P.S. Case No. 169 of 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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