

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.349 of 2022

Arising Out of PS. Case No.-316 Year-2021 Thana- AKBARPUR District- Nawada

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Dipu Kumar @ Dipu Yadav @ Dilip Yadav Son of Lakhan Yadav @ Lakhan Prasad Yadav Resident of Village- Lohsinhna, P.S.- Akbarpur, District- Nawada.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Man Mohan Kumar, Advocate.

For the Opposite Party/s : Ms. Pushpa Sinha, APP.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 20-06-2022 Learned counsel for the petitioner is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Man Mohan Kumar, learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

The application for grant of bail to the petitioner, above named, who has been made accused and put behind the bar in connection with Akbarpur P. S. Case No. 316 of 2021 registered for the offences punishable under Sections 30 (a) of the Bihar Prohibition and Excise Act, 2016.

As per the prosecution case, it is alleged that the Police on secret information raided the village Lohsinhgha. On



search being made, it is alleged that ten litre country-made liquor in two blue coloured cloth bags were found near a Pipal tree. It is further alleged that the petitioner was fled away from the place of occurrence.

Learned counsel appearing on behalf of the petitioner submitted that the alleged recovery has been made near a Pipal tree on the bank of river, which is an open place and accessible to anyone and it does not belong to the petitioner in any manner. It is further submitted that nothing has been recovered from the conscious possession of this petitioner nor the petitioner was apprehended by the Police. It is further submitted that from the seizure list, it appears that the witnesses are the Police personnels and no independent witness was present there. It is next submitted that the name of the petitioner has been disclosed by the villagers. It is lastly submitted that this petitioner is in custody since 06.10.2021 and so far other two cases, which have been mentioned in paragraph no. 3, are concerned, the petitioner is on bail.

On the other hand, learned APP for the State opposes the bail application.

Having considered the submissions made on behalf of the parties and taking into account the fact that ten litres



country-made liquor has been recovered from an open place, not from the conscious possession of this petitioner in as much as he was not apprehended at the place of occurrence nor there is any material against him and he is in custody since 06.10.2021, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge II-cum-Special Judge, Nawada in connection with Akbarpur P. S. Case No. 316 of 2021, subject to the condition that one of the bailors will be the close relative of the petitioner with further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the trial.
- (ii) He will remain present on each and every date of trial till disposal of the case.
- (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.



(v) 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 step for cancelling 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.

(Harish Kumar, J)

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