

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.908 of 2022

Arising Out of PS. Case No.-160 Year-2021 Thana- LAURIA District- West Champaran

Birbal Sah @ Chotelal Sah Son of Jhegat Sah Resident of Village- Trivouri,
P.S.- Bhairoganj, District- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Saket Tiwary, Advocate.

For the Opposite Party/s : Mr. Rajesh Kumar, APP.

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. Saket Tiwary, 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 Lauriya P. S. Case No. 160 of 2021 registered for the offences punishable under Sections 272, 273, 307, 328 read with 34 of the Indian Penal Code and Sections 30(a), 33, 34(a), 34(b), 34(b)(ii), 34 (b)(iii) of the Bihar Prohibition and Excise Act.

As per the prosecution case, it is alleged that the



cousin of the informant had consumed alcohol due to which his condition started deteriorating and thereafter, he was sent to hospital for treatment. It is further alleged that the cousin of the informant consumed the liquor at the place of co-accused Thag Sah and Suresh Sah. It is asserted that due to drinking of the spurious liquor given by co-accused persons, he fell ill.

Learned counsel appearing on behalf of the petitioner submitted that the petitioner is not named in the F.I.R. and the complicity of the petitioner has transpired on the confessional statement of co-accused Thag Sah and Suresh Sah and except the confessional statement there is no material, which suggests the complicity of this petitioner. It is further submitted that nothing incriminating material has been recovered from the person or possession of this petitioner and further, it is submitted that though the incidence has taken place on 12.07.2021 but the present F.I.R. has been instituted on 16.07.2021 and no plausible explanation for delay has been given. It is next submitted that this petitioner is in custody since 23.07.2021 and there is no material to suggest the complicity of this petitioner.

On the other hand, learned APP for the State opposes the bail application and submits that the name of the



petitioner has transpired during the course of investigation.

Having considered the submissions made on behalf of the parties and taking into account the fact that the name of the petitioner has been transpired on the confessional statement of co-accused persons and except the confessional statement there is no material suggesting the complicity of this petitioner and further he is in custody since 23.07.2021, apart from that the investigation has already been completed and the charge-sheet has been submitted, 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 Special Judge, Excise, Bettiah, West Champaran in connection with Lauriya P. S. Case No. 160 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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