

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72405 of 2021

Arising Out of PS. Case No.-342 Year-2021 Thana- MAHUA District- Vaishali

Shivmangal Rai Son Of Ramjee Rai R/O Village- Manpura, P.S.- Mahua,
District- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anuj Kumar, Advocate.

For the Opposite Party/s : Mr. Md. Iftekhar Mahmood, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 21-06-2022 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. Anuj Kumar, learned counsel for the petitioner and Mr. Iftekhar Mohmood, 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 Mahua P. S. Case No. 342 of 2021 registered for the offences punishable under Sections 30(a), 32 (ii), 34 (ii), 38(ii) and 41 (i) of the Bihar Prohibition and Excise Act.

As per the prosecution case, it is alleged that the



Police on a secret information intercepted a white Pick-Up van and on seeing the Police party the driver of the vehicle stopped the vehicle but three persons allegedly fled away. Out of them one person has been identified by *Chaukidar* as *Shivmangal Rai* (petitioner). On search from the said Pick-UP vehicle total 1357.00 litres foreign liquor was recovered. It is also alleged that local people disclosed that the liquor belongs to this petitioner.

Learned counsel appearing on behalf of the petitioner submitted that neither the petitioner was arrested from the place of occurrence nor the alleged Pick-Up van belongs to him and moreover, nothing has been recovered from the physical or conscious possession of this petitioner. It is further submitted that only because of the fact that the petitioner has been named in seven other similar cases besides the present one, the name of the petitioner has been implicated by the Police personnel, which shows his high-handedness. It is further submitted that during the course of investigation, except the suspicion and identification made by the *Chaukidar* no material has come which suggests the involvement of the petitioner in the present case. It is also submitted that this petitioner is in custody since 02.09.2021, though the investigation has already



been concluded and the charge-sheet has been submitted in the present case and moreover, his custodial interrogation is not required.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that the petitioner has been identified while he was fleeing from the said Pick-Up van from which the alleged recovery has been made.

Having considered the submissions made on behalf of the parties and taking into account the fact that the petitioner was neither arrested at the spot nor any incriminating material has been recovered from the conscious possession of this petitioner and he is in custody since 02.09.2021, apart from that the investigation has already been concluded and the charge-sheet has been submitted, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Additional Session Judge-II-cum-Excise court, Vaishali at Hajipur in connection with Mahua P. S. Case No. 342 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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