

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62993 of 2022

Arising Out of PS. Case No.-209 Year-2021 Thana- AMAS District- Gaya

Rajesh Tiwari, Son of Late Srinath Tewari, R/o- House No. 3, Dilkhusa, S.T. Park, Circus Avenue, P.S.- Karaya, District- Kolkata- 700017 (West Bengal)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Satyabir Bharti, Advocate
For the Opposite Party/s : Mr.Jagdhara Prasad, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 16-12-2022 This petition has been taken up for out of turn hearing on a supplementary affidavit being moved on behalf of the petitioner that the petitioner, who is a chronic diabetic, suffered transient ischemic stroke on 03.12.2022 while in custody, though he has recovered. The deponent consulted the doctor at Kolkata and the doctor has advised that it is life threatening and needs immediate tests and treatment, failing which he could be either paralyzed for life or would not survive.

Heard learned counsel for the petitioner and learned APP for the State through video conferencing.

In the present case, the petitioner seeks bail in connection with Amas P.S. Case No. 209 of 2021 registered for the alleged offences under Section 30(a), 33 and 41 of the Bihar Prohibition and Excise Act.



As per prosecution case, the recovery of total 4000 liters of spirit was made from a truck being driven by the co-accused Shatrughan Rai, who disclosed the names of other co-accused persons who were involved in the trading of illicit liquor on larger scale. The name of the petitioner transpired during investigation as one of the accused persons who was also involved in the smuggling of illicit liquor.

The learned counsel for the petitioner submits that the petitioner has been named in this case on the basis of the extracted confessional statement of brother of the petitioner namely, Ramesh Tiwari otherwise there is no material against this petitioner who was not even named by the driver who was arrested from the spot. The petitioner is not even the owner of the truck from which the recovery has been made. The petitioner is a bonafide transporter. Nothing incriminating has been recovered from his conscious possession. The petitioner is in custody since 21.09.2022 and the charges have been framed. The several co-accused persons have been granted bail vide orders dated 24.06.2022, 29.07.2022, 20.08.2022, 27.08.2022, 09.09.2022 and 28.09.2022 passed in Cr. Misc. Nos. 69997 of 2021, 21097 of 2022, 32071 of 2022, 38771 of 2022, 43328 of 2022 and 277739 of 2022, respectively.



Learned APP opposes the prayer for bail submitting that a huge quantity of spirit has been seized and the petitioner is involved in illicit trade of liquor.

Having regard to the rival submissions and considering the fact that no recovery has been made from this petitioner, who was not apprehended from the spot and further considering the submission of charge-sheet along with the period of his custody, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Excise Judge, Court No.2, Gaya, in connection with Amas P.S. Case No. 209 of 2021, subject to the conditions mentioned in Section 437 (3) of the Code of Criminal Procedure and also the following conditions :

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by



the court concerned.

(Arun Kumar Jha, J)

V.K.Pandey/-

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