

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16451 of 2022

Arising Out of PS. Case No.-52 Year-2021 Thana- VIJAYEPUR District- Gopalganj

Subhash Gond Son of Late Malu Gond R/o village - Matiyari Pokhra, P.S.-
Vijaipur, District - Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar Pandey, Advocate

For the Opposite Party/s : Mr. Binay Krishna, Spl.P.P

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

8 03-04-2023 Heard learned counsel for the petitioner and learned
Special Public Prosecutor for the State.

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

Petitioner seeks bail in a case registered for the
offences punishable under Sections 328, 302, 201/34 of the
Indian Penal Code, Sections 3(2)(v) of SC/ST Act and Section
44 of the Bihar Prohibition and Excise Amendment Act, 2018.

According to prosecution case, some unknown persons
including the petitioner were selling the poisonous liquor at his
home near the brick kiln of one Narsingh Sah. It is further
alleged that some of the laborers died due to consumption of the
said poisonous liquor.

Learned counsel for the petitioner submits that



petitioner has falsely been implicated in the present case. He further submits that the petitioner is not named in the F.I.R. and the name of the petitioner has been transpired during investigation on the basis of confessional statement of the co-accused persons, namely, Kitab @ Kitabuddin and Chhabila. He further submits that it appears from the F.I.R. that the date of occurrence is 16.02.2021 but the present F.I.R. is instituted on 08.03.2021 i.e. after delay of about 22 days without giving any explanation of the said delay. He further submits that the petitioner was arrested in Vijaipur P.S. Case No. 33 of 2021 and the statement of the petitioner was recorded in the Vijaipur P.S. Case No. 33 of 2021 and on the basis of the confessional statement of the petitioner, the police has filed the petition before the court concerned to remand the petitioner in the present case. He further submits that the confessional statement of the petitioner was recorded by the police on 14.07.2021 but the petitioner has remanded in the present case on 21.12.2021. He further submits that when the confessional statement of the petitioner was recorded in the present case, the petitioner was not remanded in this case and later on remanded in the present case on 21.12.2021. He further submits that except the confessional statement of the petitioner and the co-accused



persons, no other cogent material has come during investigation against the petitioner. The petitioner is in custody since 21.12.2021.

Vide order dated 16.02.2023 a report was called with regard to the stage of the trial. Report dated 23.02.2023 reveals that the case is pending on the stage of hearing and on the point of framing of charge. Learned counsel for the petitioner submits that in view of the report of the learned Trial Court, the trial is not likely to be concluded in the near future.

The learned Special Public Prosecutor on the basis of the material available on record and the case diary has vehemently opposed the prayer for bail of the petitioner and also submits that petitioner carries four criminal antecedents other than the present one.

Considering the aforesaid facts and circumstances and the period of custody, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Court below where the case is pending in connection with Vijaipur P.S. Case No. 52 of 2021, subject to the following conditions:-

1. Petitioner shall co-operate in the trial and



shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

3. And further condition that 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 cancellation 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.

(Rajesh Kumar Verma, J)

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