

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17176 of 2023

Arising Out of PS. Case No.-28 Year-2023 Thana- BASANTPUR District- Siwan

Bikash Kumar Son of Late Awadhesh Prasad Resident of Village - Mahuari,
P.O.- Deoria, P.S.- Maharajganj, District - Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 17211 of 2023

Arising Out of PS. Case No.-28 Year-2023 Thana- BASANTPUR District- Siwan

Gajendra Mishra S/O Jagarnath Mishra Resident of Village- Mehuwal Mahal,
P.S.- M.H. Nagar (Hasanpura), District- Siwan.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :
(In CRIMINAL MISCELLANEOUS No. 17176 of 2023)
For the Petitioner/s : Mr. Bijay Prakash Singh, Advocate
For the Opposite Party/s : Mr. Kanhaiya Kishore, APP
(In CRIMINAL MISCELLANEOUS No. 17211 of 2023)
For the Petitioner/s : Mr. Anil Chandra, Advocate
For the Opposite Party/s : Mr. Ramesh Chandra, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 27-06-2023 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

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

Petitioners seek bail who are in custody since



24.01.2023 in connection with Basantpur (Lakri Nawiganj O.P.) P.S. Case No. 28 of 2023, F.I.R. dated 23.01.2023 for the offences punishable under Sections 272, 273, 328, 308, 304, 120b/34 of the Indian Penal Code and Section 30(a), 37(b), 33 and 34 of the Bihar Prohibition and Excise Act, 2016.

Recovery is of 800 stickers of 100 pm liquor from the possession of the petitioner, namely, Bikash Kumar.

Learned counsel for the petitioners submits that petitioners are innocent and they have falsely been implicated in the present case. He further submits that it appears from the F.I.R. as well as seizure list that no incriminating articles have been recovered from the possession of the petitioners. He further submits that from perusal of the seizure list, 800 stickers of 100 pm liquor has been recovered from the possession of the petitioner, namely, Bikash Kumar and no incriminating article has been recovered from the possession of the petitioner, namely, Gajendra Mishra rather the police has seized the delivery vehicle from the office of the petitioner, namely, Gajendra Mishra. He further submits that except the aforesaid, no other material has come to suggest the complicity of the petitioners in the present occurrence. He further submits that the police after investigation submitted the charge sheet against the



petitioners. He further submits that similarly situated, co-accused, namely, Deepak Kumar has been granted bail by a co-ordinate Bench of this Court vide order dated 15.05.2023 passed in Cr. Misc. No. 23846 of 2023, co-accused, namely, Arjun Kumar has been granted bail by a co-ordinate Bench of this Court vide order dated 10.05.2023 passed in Cr. Misc. No. 22038 of 2023 and co-accused, namely, Dinesh Tiwari has been granted bail by a co-ordinate Bench of this Court vide order dated 10.05.2023 passed in Cr. Misc. No. 18176 of 2023. The petitioners are in custody since 24.01.2023.

The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioners on the ground that petitioner, namely, Bikash Kumar carries two criminal antecedents other than the present one.

Considering the aforesaid facts and circumstances, let the petitioners, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Excise Court No. 1, Siwan in connection with Basantpur (Lakri Nawiganj O.P.) P.S. Case No. 28 of 2023, subject to the following conditions:-

1. Petitioners 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 their absence on two consecutive dates without sufficient reason, their bail bond shall be cancelled by the Court below.

2. If the petitioners 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 petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. 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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