

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17289 of 2023

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

1. Harendra Sah Son of Late Baijnath Sah Resident of Village - Bhopatpur, P.S.- Basantpur (Lakri Nawiganj O.P.), District - Siwan.
2. Dilip Sah Son of Late Laxman Sah Resident of Village - Bhopatpur, P.S.- Basantpur (Lakri Nawiganj O.P.), District - Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 23999 of 2023

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

Niraj Dubey @ Niraj Kumar Dubey S/O Uma Shankar Dubey R/O Village- Karhi Kala, P.S- Korahnama, Distt.- Bhadohi, U.P. At present resident of Village- SRL Saran Road, Riyans ke staff, Tarwara More, Siwan, P.S- Muffasil, Distt.- Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 24297 of 2023

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

Sandeep Kumar @ Sandip Kumar Son Of Late Bijay Chouhan Resident Of Village- Beldari Tola, Ps- Daraunda, Distt- Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 24741 of 2023

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

Nagendra Manjhi Son of Sundar Manjhi Resident of Village - Basantpur, P.S. - Basantpur, District - Siwan



... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 17289 of 2023)

For the Petitioner/s : Mr. Bijay Prakash Singh, Advocate

For the Opposite Party/s : Mr. Dinesh Singh, APP

(In CRIMINAL MISCELLANEOUS No. 23999 of 2023)

For the Petitioner/s : Md. Anis Akhtar, Advocate

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

(In CRIMINAL MISCELLANEOUS No. 24297 of 2023)

For the Petitioner/s : Mr. Suresh Prasad Sharma, Advocate

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

(In CRIMINAL MISCELLANEOUS No. 24741 of 2023)

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

For the Opposite Party/s : Mr. Bishweshwar Ram, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 04-07-2023

In Cr. Misc. No. 17289 of 2023

Heard learned counsel appearing on behalf of the petitioners and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period of four weeks from today.

The petitioners seek bail in connection with Basantpur (Lakri Nawiganj O.P.) P.S. Case No. 28 of 2023 registered for the offence under Sections 272, 273, 328, 308, 304, 120-B/34 of the Indian Penal Code (in short 'I.P.C.') and under Sections 30(a), 37(b), 33 and 34 of the Bihar Prohibition and Excise Act, 2016.

The accused/petitioners are named in the F.I.R. and are in custody since 24.01.2023.



The allegation against the petitioners is to involve in illegal trading/manufacturing and selling activities of illicit, liquor, where after consumption of said spurious liquor one person died.

Learned counsel appearing on behalf of the petitioners submitted that the name of petitioners surfaced on the basis of disclosure made by co-accused, namely, Mantu Bin. It is submitted that in furtherance of disclosure made by Mantu Bin, one litre of alleged illicit liquor appears to be recovered from the house of these petitioners without compliance of Section 100(4) of the Cr.P.C. It is submitted that as recovery of alleged illicit liquor was made from the joint house of these petitioners, it cannot be said that recovery of illicit liquor was made from their conscious physical possession. It is further submitted that in want of chemical analysis report, it cannot be said that alleged recovered illicit liquor was same spurious liquor, causing alleged death. It is also submitted that similarly situated co-accused persons, namely, Dinesh Tiwari, Basant Raut and Md. Neshar have already been granted bail by the learned Co-ordinate Benches of this Court through Cr. Misc. Nos. 18176 of 2023 vide order dated 10.05.2023, 22689 of 2023 vide order dated 14.06.2023 and 20037 of 2023 vide order dated



10.05.2023, respectively. While concluding the argument, it has been submitted that petitioners found involved in one similar nature of case, where they are on bail and moreover, investigation of this case is completed, for which charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP opposes the prayer of bail.

Considering the facts and circumstances as mentioned above, as recovery of alleged illicit liquor not appears to be made from the conscious physical possession of these petitioners, where in want of chemical analysis report, it cannot be said that it was the same spurious liquor which caused alleged death, coupled with the fact that charge-sheet has already submitted, where petitioners are in custody since 24.01.2023, accordingly both the petitioners, above named, are directed to be released on bail in connection with Basantpur (Lakri Nawiganj O.P.) P.S. Case No. 28 of 2023 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Excise Court No. 1, Siwan/concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C. with further conditions:



“(i) That the petitioners shall not involve in similar nature of offence till the conclusion of trial, failing which, the State shall be at liberty to move before the learned Trial Court itself for the cancellation of bail bond of these petitioners.

(ii) That accused/petitioners shall cooperate in the trial and shall be physically present on each and every date before the learned Trial Court till the conclusion of trial and exemption from physical appearance be allowed by the learned Trial Court, only on medical ground of the petitioners duly supported by the documents.

(iii) That one of the bailors shall be deponent of the present bail petition.”

In Cr. Misc. No. 23999 of 2023

Heard learned counsel appearing on behalf of the



petitioner and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period of four weeks from today.

The petitioner seeks bail in connection with Basantpur (Lakri Nawiganj O.P.) P.S. Case No. 28 of 2023 registered for the offence under Sections 272, 273, 328, 308, 304, 120-B/34 of the Indian Penal Code (in short 'I.P.C.') and under Sections 30(a), 37(b), 33 and 34 of the Bihar Prohibition and Excise Act, 2016.

The accused/petitioner is named in the F.I.R. and is in custody since 24.01.2023.

The allegation against the petitioner is to involve in illegal trading/manufacturing and selling activities of illicit, liquor, where after consumption of said spurious liquor one person died.

Learned counsel appearing on behalf of the petitioner submitted that the name of petitioner surfaced on the basis of confessional statement of co-accused, namely, Deepak Kumar. It is submitted that implication of this petitioner appears only being staff of the Saran Transport Company, he was suspected to carry illicit liquor/spurious liquor, which was alleged to consume and responsible for the present occurrence. It is also



submitted that similarly situated co-accused persons, namely, Dinesh Tiwari, Basant Raut and Md. Neshar have already been granted bail by the learned Co-ordinate Benches of this Court through Cr. Misc. Nos. 18176 of 2023 vide order dated 10.05.2023, 22689 of 2023 vide order dated 14.06.2023 and 20037 of 2023 vide order dated 10.05.2023, respectively. While concluding the argument, it has been submitted that petitioner is a man of clean antecedent and moreover, investigation of this case is completed, for which charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP opposes the prayer of bail.

Considering the facts and circumstances as mentioned above, as implication of petitioner appears being staff of Transport Company only, engaged in transportation of illicit liquor, coupled with the fact that charge-sheet has already submitted, where petitioner is in custody since 24.01.2023, accordingly, the above named petitioner is directed to be released on bail in connection with Basantpur (Lakri Nawiganj O.P.) P.S. Case No. 28 of 2023 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Excise Court No. 1, Siwan/concerned court, subject to



the conditions as mentioned under Section 437 (3) of the Cr.P.C.
with further conditions:

“(i) That accused/petitioner shall cooperate in the trial and shall be physically present on each and every date before the learned Trial Court till the conclusion of trial and exemption from physical appearance be allowed by the learned Trial Court, only on medical ground of the petitioner duly supported by the documents.

(ii) That one of the bailors shall be deponent of the present bail petition.”

In Cr. Misc. No. 24297 of 2023

Heard learned counsel appearing on behalf of the petitioner and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period of four weeks from today.

The petitioner seeks bail in connection with Basantpur (Lakri Nawiganj O.P.) P.S. Case No. 28 of 2023 registered for



the offence under Sections 272, 273, 328, 308, 304, 120-B/34 of the Indian Penal Code (in short 'I.P.C.') and under Sections 30(a), 37(b), 33 and 34 of the Bihar Prohibition and Excise Act, 2016.

The accused/petitioner is named in the F.I.R. and is in custody since 24.01.2023.

The allegation against the petitioner is to involve in illegal trading/manufacturing and selling activities of illicit, liquor, where after consumption of said spurious liquor one person died.

Learned counsel appearing on behalf of the petitioner submitted that the name of petitioner surfaced on the basis of disclosure made by co-accused persons, namely, Mantu Bin and Suresh Bin. It is submitted that alleged recovery of illicit liquor was made from the house of elder brother of this petitioner, namely, Deepak Kumar, who has already been granted bail by one of the learned Co-ordinate Bench of this Court through Cr. Misc. No. 23846 of 2023 vide order dated 15.05.2023. While concluding the argument, it has been submitted that petitioner found involved in one more criminal case, where he is on bail and moreover, investigation of this case is completed, for which charge-sheet has been submitted, as such, there is no chance of



tampering with the evidence.

Learned APP opposes the prayer of bail.

Considering the facts and circumstances as mentioned above, as recovery of alleged illicit liquor not appears to be made from the conscious physical possession of this petitioner, coupled with the fact that charge-sheet has already submitted, where petitioner is in custody since 24.01.2023, accordingly, the above named petitioner is directed to be released on bail in connection with Basantpur (Lakri Nawiganj O.P.) P.S. Case No. 28 of 2023 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Excise Court No. 1, Siwan/concerned court, subject to the conditions as mentioned under Section 437 (3) of the Cr.P.C. with further conditions:

“(i) That accused/petitioner shall cooperate in the trial and shall be physically present on each and every date before the learned Trial Court till the conclusion of trial and exemption from physical appearance be allowed by the learned Trial Court, only on medical ground of the petitioner duly



supported by the documents.

(ii) That one of the bailors
shall be deponent of the present bail
petition.”

In Cr. Misc. No. 24741 of 2023

Heard learned counsel appearing on behalf of the
petitioner and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period of
four weeks from today.

The petitioner seeks bail in connection with Basantpur
(Lakri Nawiganj O.P.) P.S. Case No. 28 of 2023 registered for
the offence under Sections 272, 273, 328, 308, 304, 120-B/34 of
the Indian Penal Code (in short ‘I.P.C.’) and under Sections
30(a), 37(b), 33 and 34 of the Bihar Prohibition and Excise Act,
2016.

The accused/petitioner is named in the F.I.R. and is in
custody since 24.01.2023.

The allegation against the petitioner is to involve in
illegal trading/manufacturing and selling activities of illicit,
liquor, where after consumption of said spurious liquor one
person died.



Learned counsel appearing on behalf of the petitioner submitted that the name of petitioner surfaced on the basis of disclosure made by co-accused, namely, Mantu Bin. It is submitted that in furtherance of disclosure made by Mantu Bin, one litre of alleged illicit liquor appears to be recovered from the house of this petitioner without compliance of Section 100(4) of the Cr.P.C. It is submitted that as recovery of alleged illicit liquor was made from the joint house of this petitioner, it cannot be said that recovery of illicit liquor was made from his conscious physical possession. It is further submitted that in want of chemical analysis report, it cannot be said that alleged recovered illicit liquor was same spurious liquor, causing alleged death. It is also submitted that similarly situated co-accused persons, namely, Dinesh Tiwari, Basant Raut and Md. Neshar have already been granted bail by the learned Co-ordinate Benches of this Court through Cr. Misc. Nos. 18176 of 2023 vide order dated 10.05.2023, 22689 of 2023 vide order dated 14.06.2023 and 20037 of 2023 vide order dated 10.05.2023, respectively. While concluding the argument, it has been submitted that petitioner is a man of clean antecedent and moreover, investigation of this case is completed, for which charge-sheet has been submitted, as such, there is no chance of



tampering with the evidence.

Learned APP opposes the prayer of bail.

Considering the facts and circumstances as mentioned above, as recovery of alleged illicit liquor not appears to be made from the conscious physical possession of this petitioner, where in want of chemical analysis report, it cannot be said that it was the same spurious liquor which caused alleged death, coupled with the fact that charge-sheet has already submitted, where petitioner is in custody since 24.01.2023, accordingly, the above named petitioner is directed to be released on bail in connection with Basantpur (Lakri Nawiganj O.P.) P.S. Case No. 28 of 2023 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Excise Court No. 1, Siwan/concerned court, subject to the conditions as mentioned under Section 437 (3) of the Cr.P.C. with further conditions:

“(i) That accused/petitioner shall cooperate in the trial and shall be physically present on each and every date before the learned Trial Court till the conclusion of trial and exemption from physical appearance be allowed



by the learned Trial Court, only on medical ground of the petitioner duly supported by the documents.

(ii) That one of the bailors shall be deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

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