

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35584 of 2023

Arising Out of PS. Case No.-378 Year-2021 Thana- NAWADA District- Nawada

Lakshman Yadav @ Lakshman Kumar S/O Rajo Yadav @ Rajendra Prasad
R/O Village- Nehaluchak, P.S. And District-Nawada

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pramod Kumar Verma, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 27-07-2023 Heard learned counsel for the petitioner and the
learned A.P.P. for the State.

2. The petitioner seeks bail, who is in custody since 18.01.2023 in connection with Nawada (Town) P.S. Case No. 378 of 2021, F.I.R. dated 02.04.2021 registered for the offence punishable under Sections 33,34,36 of Bihar Prohibition and Excise Act, 2016.

3. According to FIR prosecution story in short is that FIR has been lodged against unknown on the basis of written/typed information by the informant Anjani Kumar, A.S.I. it is alleged therein that the informant Anjani Kumar is investigating officer of Nager P.S. (U.D.) case No.14 of 2021 dated 31.03.2021. During investigation of U.D.Case statement



of witnesses was taken and it appears that Gopal Kumar died due to drinking of spurious liquor. He purchased liquor on 29.03.2021.

4. Learned counsel appearing for the petitioner submits that the petitioner has falsely been implicated in the present case. Petitioner is not named in the FIR and the name of the petitioner has been transpired during investigation on the basis of the confessional statement of co-accused person, namely, Arvind Kumar which was recorded in Nagar P.S. Case No.602 of 2020 as well as confessional statement of co-accused, namely, Manti Devi which was recorded in Nagar P.S. Case No.384 of 2021. From bare perusal of the FIR it appears that the date of occurrence as alleged in the FIR is 08.12.2022, fardbeyan has been recorded on 14.12.2022 but the present FIR has been instituted on 02.01.2023 after delay of six days without giving any explanation of delay. Learned counsel for the petitioner submits that nothing has been recovered from conscious possession of the petitioner and the petitioner was not arrested at the spot and except the aforesaid, no other material has come during investigation against the petitioner to suggest the involvement of the petitioner in the present occurrence. Further submits that co-



accused persons, namely, Bipin Yadav @ Bipin Kumar @ Kamlesh Kumar and Kaushal Yadav have been granted bail by a Coordinate Bench of this Hon'ble Court vide order dated 25.05.2023 passed in Cr. Misc. Nos. 34864 of 2023 and 34865 of 2023 respectively and the police, after investigation, submitted chargesheet against the petitioner and the petitioner is in custody since 18.01.2023.

5. Learned A.P.P. for the State, on the other hand, has vehemently opposed the prayer for bail of the petitioner and submits that the petitioner carries 21 more cases other than the present one and all are of similar nature pertaining to Excise Act but fairly submits that out of 21 cases, the petitioner is on bail in thirteen cases, and rest 8 cases are pending for consideration, as mentioned in para-3 of the bail petition.

6. Considering the aforesaid facts, 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 learned Exclusive Special Excise Judge-1st, Nawada in connection with Nawada (Town) P.S. Case No. 378 of 2021, with the following conditions:-

(I) 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/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be cancelled by the Court below.

(II) 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.

(III) 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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