

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40310 of 2023

Arising Out of PS. Case No.-220 Year-2021 Thana- MOHAMMADPUR District- Gopalganj

SHYAMDEO RAI Son of Late Shiv Bachan Rai R/o Village - Baharampur,
P.S.- Baikunthpur, District - Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sumit Jha, Advocate

For the Opposite Party/s : Mrs. Meena Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 14-07-2023 Heard Mr. Sumit Jha, learned counsel for the
petitioner and learned APP for the State.

The petitioner is an accused in connection with Mahammadpur P.S. Case No. 220 of 2021 registered for the offences under sections 272, 273, 328, 307, 304, 120(B) and 34 of the Indian Penal Code and sections 30(a), 37(b), 33 and 34 of the Bihar Prohibition and Amended Excise Act lodged on 03.11.2021 by the informant, Shashi Ranjan Kumar.

The prosecution story, in brief, is that the informant received information that Santosh Sah alongwith 4-5 persons are seriously ill. When he reached at spot, found Santosh Sah dead and further received information that others are also seriously ill, since they consumed liquor last night. On questioning, Bhola Ram disclosed that they had consumed liquor in house of



Chhathu Rai and Nagendra Ram in presence of other co-accused. Further, it has been alleged that Chhathu Rai received wine from Ramyan Rai, Shyamdeo Rai (petitioner herein). Thereafter, the houses of Chhathu Rai and Mukesh Ram was raided, from where 1.2 litres wine from house of Chhathu Ram and 4.8 litres country made liquor from house of Mukesh Ram were recovered/seized. Further, due to consumption of liquor, Chotelal Prasad and Mukesh Ram died, seizure list prepared. Accordingly, the FIR.

It has been contended by the learned Counsel for the petitioner that nothing has been recovered from his personal possession and only on the basis of the statement given by the Chhathu Ram that it had come from the house of the petitioner, he has been dragged in this case for which he has already suffered by being in custody since 08.02.2023 (as stated in paragraph 10 of the bail application). The last submission is that some of the similar placed co-accuseds have since been released on bail (Annexure 2 series).

Learned APP for the State, on the other hand, opposes the prayer for bail stating that the alleged liquor which caused death to some of the persons who consumed it, has been attributed by Chhathu Rai.



Considering the fact that his name has come in the confessional statement, nothing recovered from his personal possession, some of the similar placed co-accuseds have been released on bail and is in custody since 08.02.2023, this Court is inclined to extend him privilege of bail.

Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of like amount each to the satisfaction of the learned Additional Sessions Judge II-cum-Spl., Excise Court I, Gopalganj in connection with Mahammadpur P.S. Case No. 220 of 2021, subject to the following conditions:-

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his *bona fide*;

(ii) the petitioner shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial court itself;

(iii) the petitioner shall appear before the concerned police station every month for next one year to mark attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences,



failing which the State shall be at liberty to take steps for cancellation of his bail bonds;

(v) the petitioner shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

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