

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47308 of 2023

Arising Out of PS. Case No.-496 Year-2021 Thana- MALSALAMI District- Patna

Bharat Rai @ Bharat Kumar Son Of Vijay Rai R/O Damrahi Ghat
(DAMRIYAH I Ghat), P.S- Malsalami, Distt- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 04-08-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. Petitioner seeks bail, who is in custody since 14.06.2023, in connection with Malsalami P.S. Case No. 496 of 2021, F.I.R. dated 14.10.2021 registered for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2018.

3. Recovery is of 900 litres of *country made* liquor.

4. Learned counsel for the petitioner submits that the petitioner is innocent and he has been falsely implicated in the present case. He further submits that the allegation as alleged in the F.I.R. is false and fabricated and the petitioner has not committed any offence as alleged in the F.I.R. He further submits that the name of the petitioner has been transpired on the basis



of disclosure made by co-accused person namely Dhannu Rai who was the driver of the vehicle in question. He further submits that it appears from the F.I.R. as well as seizure list that nothing has been recovered from the conscious possession or the house of the petitioner rather recovery has been made from the pick-up van in question and the petitioner has no concern at all with the alleged recovery of illicit liquor or the pick-up van in question. He further submits that except the disclosure made by co-accused person, no other material has come during investigation to suggest the involvement of the petitioner in the present occurrence and the said Dhannu Rai has been granted bail by a Coordinate Bench of this Court vide order dated 04.03.2022 passed in Cr. Misc. No. 3333 of 2022 and the petitioner is in custody since 14.06.2023.

5. The learned Additional Public Prosecutor for the State has vehemently opposed the prayer for bail of the petitioner on the ground that the petitioner carries one more case other than the present one in which he is on bail.

6. Considering the facts and circumstances of the case, nothing has been recovered from the possession of the petitioner and having clean antecedent, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge Excise, Patna City, Patna in



connection with Malsalami P.S. Case No. 496 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 witness, 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 antecedents, 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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