

Arising Out of PS. Case No.-23 Year-2022 Thana- SOHSARAI District- Nalanda

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... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajendra Narayan, Senior Advocate

Mr. Raj Kishor Prasad, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 07-08-2023 Heard learned counsel appearing on behalf
of the parties.

2. The petitioner seeks bail in connection with Sohsarai P.S. Case No. 23 of 2022 registered for the offence under Sections 302/328/120B of the Indian Penal Code and Section 33, 34 and 36 of the Bihar Prohibition and Excise Act, 2018.

3. The accused/petitioner is named in the F.I.R. and is in custody since 24.01.2022.

4. The allegation against the petitioner is to deal with illegal activities of illegal and spurious liquor, along with other named and unknown co-accused persons, where, after consuming spurious liquor, 3 persons, namely, Bhago



Mistri, Munna Mistri and Dharmendra Prasad, died on 15.01.2022 and further 05 more persons, died in hospital, during course of treatment.

5. Learned senior counsel appearing on behalf of the petitioner submitted that petitioner falsely implicated with the present case, as his named appeared on the basis of disclosure made by apprehended co-accused person, namely, Jitendra Paswan @ Bokra. It is submitted that in furtherance of said disclosure, no spurious liquor appears to be recovered, during course of investigation, from conscious physical possession of this petitioner, as to connect him, *prima facie*, with present occurrence. It is also pointed out by learned senior counsel that save and except disclosure and suspicion, arises thereof, nothing incriminating appears against this petitioner and by taking note of said fact, similarly situated co-accused person, namely, Sintu Ram, has already granted bail by one of the learned co-ordinate Bench of this Court, through Cr. Misc. No. 25895 of 2022 dated 19.05.2023. It is further submitted that the fact of this case is not suggesting any legal ingredients as to suggest implication of this petitioner under Section 302 and 328 of the Indian Penal Code (IPC) While concluding the argument, it is submitted that petitioner found involved in 04 more



criminal cases, where, he is on bail and moreover, investigation of this case is completed, for which, charge-sheet has already submitted, as such, there is no chance of tampering with the evidence.

6. Learned APP appearing on behalf of the State, opposes the prayer of bail.

7. Considering the facts and circumstances as mentioned above, as save and except suspicion arises out of disclosure made by apprehended co-accused, namely, Jitendra Kumar @ Bokra, nothing appears incriminating against this petitioner, *prima facie*, as to connect with the present occurrence of death coupled with the fact that charge-sheet has already submitted, where, petitioner is in custody since 24.01.2022, let the petitioner, above named, is directed to be released on bail in connection with Sohsarai P.S. Case No. 23 of 2022, 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 – 2nd, Nalanda at Biharsharif/concerned court, subject to the condition as mentioned under Section 437(3) of the Cr.P.C. with further conditions:

“(i)That petitioner shall not



involve in the similar nature of offence till the conclusion of trial, failing which, the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioner.

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

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

(Chandra Shekhar Jha, J)

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