

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51316 of 2023

Arising Out of PS. Case No.-43 Year-2023 Thana- JALE District- Darbhanga

Shankar Sah Son Of Narain Sah Resident Of Village- Pithariya, Ps- Jalley,
Dist- Darbhanga Petitioner/s

Versus

The State Of Bihar Patna Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vinay Kumar Mishra, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 16-08-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. Learned counsel for the petitioner is permitted to
remove the defect(s), as pointed out by the office, if any, within
a period of four weeks from today.

3. Petitioner seeks bail who is in custody since
14.04.2023 in connection with Jalley P.S. Case No. 43 of 2023,
F.I.R. dated 14.04.2023 for the offences punishable under
Sections 30(a) and 41 of the Bihar Prohibition and Excise
(Amendment) Act, 2018.

4. Recovery is of 662.76 liters of illegal liquor from
the asbestos house and 18 liters from the Scooty.

5. Learned counsel for the petitioner submits that
petitioner is innocent and he has falsely been implicated in the
present case. 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 of the petitioner rather the recovery has



been made from the asbestos house of Nand Kishore Singh and from the Scooty of the petitioner. He further submits that there is non-compliance of Section 100 of Cr.P.C. He further submits that the similarly situated co-accused person, namely, Sushil Singh has been granted anticipatory bail by the Co-ordinate Bench of this Hon'ble Court vide order dated 03.07.2023 passed in Cr. Misc. No. 40571 of 2023 and another co-accused person, namely, Vijay Singh @ Vijay Kumar Singh has been granted bail by the Co-ordinate Bench of this Hon'ble Court vide order dated 03.08.2023 passed in Cr. Misc. No. 47356 of 2023. He further submits that the police after investigation submitted the charge sheet against the petitioner. The petitioner is in custody since 14.04.2023.

6 The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner on the ground that the petitioner carries one criminal antecedent other than the present one but fairly submits on the basis of paragraph 3 of the bail petition that the petitioner is on bail in the said case.

7. Considering the aforesaid facts and circumstances and the petitioner has clean antecedent, 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 the learned Exclusive Special Judge I
(Excise Act) Darbhanga in connection with Jalley P.S. Case No.
43 of 2023, 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 witnesses, 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 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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