

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52346 of 2023

Arising Out of PS. Case No.-28 Year-2023 Thana- BASANTPUR District- Siwan

SHANKAR MANJHI Son of Late Mathura Manjhi Resident of village - Bala,
P.S. - Basantpur (Lakri Nabiganj), Distt. - Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bijay Prakash Singh, Advocate

For the Opposite Party/s : Mr.Ramesh Chandra, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 18-08-2023 Heard the parties.

The petitioner is in judicial custody in connection with Basantpur (Lakri Nawiganj O.P.) P.S. Case No. 28 of 2023 for the offence punishable under Sections 272, 273, 328, 308, 304, 120(B), 34 of the Indian Penal Code and section 30(a), 37(b), 33, 34 of the Bihar Prohibition and Excise Act lodged on 23.1.2023 by the informant, Suraj Prasad.

As per the prosecution story, the police upon information that the accused persons are in the business of selling of liquor, due to which, some persons have fell ill, they reached near 'Bala' and found that the persons are admitted at Primary Health Centre, Lakri, Naviganj with loss of vision. Thereafter, the house of Mantu Bin and Suresh Bin were raided and five liters of country made liquor recovered/seized.



Thereafter, the house of Sita Bin, Harendra Sah and Dilip Sah searched and 1 liter of country made liquor recovered/seized from the each house. It further came to notice during investigation that Janak Prasad had died at Sadar Hospital and further Mantu Bin talked to Deepak Kumar and wanted spirit which was delivered and mixed with water, served to the customers which resulted into illness and loss of vision.

Accordingly, the raid was conducted at the house of Deepak Kumar and 50 liters of raw spirit and 50 kg. 'Fitkari' along with raw materials recovered/seized and Deepak Kumar was arrested. Thereafter, on the confessional statement of Mantu Bin, the shop of the petitioner Shankar Manjhi was raided and 800 pieces of 8 P.M. stickers were recovered/seized. Accordingly, the FIR.

Learned counsel for the petitioner submits that no prohibited item/spirit/fitkari/liquor have been recovered from his possession, the only allegation is that 800 pieces of 8 P.M. stickers were recovered which cannot be the basis for linking him with the alleged occurrence. In any case, the shop was an open place and the police only to implicate him has put those stickers in the shop, he has suffered by being in custody since 18.7.2023 (para-15 of the petition) and is an old person of 73



years. He further submits that similar placed co-accused have been released on bail by Patna High Court (Annexure-2 series).

Learned APP opposes the prayer stating that people got ill and also lost vision.

Taking account the fact that the main allegation is against Deepak Kumar and Mantu Bin, the petitioner himself was one of the sufferer having been allegedly consumed the illicit liquor and fell ill, 73 years of age, has no criminal antecedent and is in custody since 18.7.2023, this Court is inclined to extend him the privilege of bail with conditions.

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 learned Exclusive Excise Court No.-1, Siwan, in connection with Basantpur (Lakri Nawiganj O.P.) P.S. Case No. 28 of 2023 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 fortnight for next six months to mark his 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 the 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 his bail bonds.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

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