

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.53745 of 2023**

Arising Out of PS. Case No.-499 Year-2021 Thana- BODHGAYA District- Gaya

Masoom Anwar Son of Khurshid Anwar Resident of village - Kulti Rani  
Talab, D.V.C. Colony, Kulti, P.S. - Kulti, Distt. - Burdwan (West Bengal)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Niranjan Parihar, Advocate

For the Opposite Party/s : Mr. Umeshanand Pandit, APP

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA**  
**ORAL ORDER**

2      19-08-2023                      Heard learned counsel for the petitioner and learned  
APP for the State.

2. Petitioner seeks bail, who is in custody since 05.07.2023, in connection with Bodh Gaya P.S. Case No. 499 of 2021, F.I.R. dated 14.12.2021 registered for the offences punishable under Sections 272, 273/34 of the Indian Penal Code and Sections 30(a)/32(2)/33/36/41(1) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

3. Recovery is of 4200 litres of *spirit*.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and he has been falsely implicated in the present case. He further submits that the name of the petitioner has been transpired on the basis of disclosure made by co-accused person who is driver of the vehicle in



question and it appears from the F.I.R. itself that nothing has been recovered from the conscious possession of the petitioner and 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. The petitioner is in custody since 05.07.2023. He further submits that almost all the accused persons have been granted bail by a Coordinate Benches of this Court:-

(i) Co-accused person namely Ramesh Tewari has been granted bail by a Coordinate Bench of this Court vide order dated 06.08.2022 passed in Cr. Misc. No. 28990 of 2022.

(ii) Co-accused person namely Rajesh Tewari has been granted bail by a Coordinate Bench of this Court vide order dated 06.08.2022 passed in Cr. Misc. No. 30080 of 2022.

(iii) Co-accused person namely Rahul Tewari has been granted bail by a Coordinate Bench of this Court vide order dated 06.08.2022 passed in Cr. Misc. No. 30335 of 2022.

(iv) Co-accused person namely Kamlesh Yadav @ Kamlesh has been granted bail by a Coordinate Bench of this Court vide order dated 20.08.2022 passed in Cr. Misc. No. 34075 of 2022.

(v) Co-accused person namely Mithlesh Kumar has



been granted bail by this Court vide order dated 06.12.2022 passed in Cr. Misc. No. 59818 of 2022.

5. The learned Additional Public Prosecutor for the State has vehemently opposed the prayer for bail of the petitioner.

6. Considering the facts and circumstances of the case, nothing has been recovered from the conscious possession of the petitioner, 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 Exclusive Special Excise Court No. 1<sup>st</sup>, Gaya in connection with Bodh Gaya P.S. Case No. 499 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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