

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55865 of 2023

Arising Out of PS. Case No.-532 Year-2022 Thana- TURKAULIYA District- East
Champaran

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KISHORI SAH SON OF LATE GAURI SAH @ GAURISHANKAR SAH
RESIDENT OF VILLAGE- KHADWA MUSHAR TOLI, PS- BANJARIYA,
DISTT- EAST CHAMPARAN

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abhishek Kumar, Advocate
For the Opposite Party/s : Mrs. Meena Singh, APP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 28-08-2023

Heard the parties.

The petitioner is an accused in connection with Turkauliya (Banjariya) P.S. Case No. 532 of 2022 registered for the offences under sections 272, 273, 414 and 34 of the Indian Penal Code and sections 30(a), 30(c), 32, 34, 36, and 41(i) of the Bihar Prohibition and Excise Act lodged on 07.06.2022 by the informant, Sandeep Kumar.

As per the prosecution story, the police has alleged that on secret information, two persons were apprehended moving on Hyundai Santro car and altogether, 212 litres of country made liquor was recovered from the 'dicky'. The accused persons alleged that the same belongs to the petitioner. Accordingly, FIR lodged and the two accuseds were arrested.

It is the case of the petitioner that neither he has been



apprehended from the spot nor anything recovered from his possession and only because the accused persons named him, he has been made an accused for which he has already suffered by being in custody since 24.05.2023 (as stated in paragraph 15 of the bail application). He also concedes that he has criminal cases under his belt.

Learned APP for the State, on the other hand, opposes the prayer for bail stating that he has one dozen cases of the same nature.

Taking into account the fact that neither he has been arrested from the spot nor anything recovered from his conscious possession and he has been named on the confessional statement of Dilip Kushwaha and Suddu Sah, this Court is inclined to extend him privilege of bail but only after framing of the charges in view of the fact that he has one dozen criminal cases.

Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousands only) with two sureties of like amount each to the satisfaction of the learned Exclusive Special Excise Court No. 1, East Champaran, Motihari in connection with Turkauliya (Banjariya) P.S. Case No. 532 of 2022, 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 month for next one year to mark 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 his 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 the bail bonds.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

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