

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61838 of 2022

Arising Out of PS. Case No.-27 Year-2021 Thana- SALAIYA District- Aurangabad

KAMLESH YADAV S/o Late Dharamdeo Yadav Resident of village- Sonar
Chak, P.S.- Salaiya, District- Aurangabad

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rahul Rathour

For the Opposite Party/s : Mr.Syed Mojibur Rahman

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 04-01-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks bail in connection with Salaiya
P.S. Case No. 27 of 2021 registered for the offences punishable
under Sections 30(a), 30(c) of the Bihar Prohibition and Excise
Amendment Act, 2018.

As per prosecution case, 15 litre Mahua wine
alongwith other apparatus used for making the wine was recovered
from the place of occurrence. There is allegation that petitioner
and others were involved in manufacturing and sale of Mahua
wine.

Learned counsel for the petitioner submits that
petitioner is in custody since 17.05.2022 and bears criminal
antecedent of six cases in which five cases are of similar nature.
Charge sheet has been submitted in the case and there is no



likelihood of tampering with the prosecution evidence. Learned counsel for the petitioner further submits that petitioner is not apprehended on the spot. The name of the petitioner is dragged in this case merely on suspicion and there is no iota of evidence to demonstrate the complicity of the petitioner with alleged occurrence. The petitioner is innocent and has committed no offence as alleged against him in FIR. There is no compliance of Section 100 of Cr.P.C.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

Considering the facts and circumstances of the case, period of custody, petitioner is not apprehended on the spot, charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence, argument advanced on behalf of both sides and also taking into consideration the material available on record, let the petitioner above named be released on bail, **after framing of charge** 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 – Ist, Aurangabad in connection with Salaiya P.S. Case No. 27 of 2021, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the



affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) 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.

(iv) Petitioner shall furnish mobile number at the time of furnishing bail bond and the said mobile number shall continue in operating condition till disposal of the case and he shall get his presence marked before the officer-in-charge of the concerned police station on the first Tuesday of every month.

(v) Petitioner shall not leave the territorial jurisdiction of the concerned trial court without appropriate permission of the court concerned.

(vi) However, if petitioner violates any of the conditions, the learned trial court is at liberty to cancel the bail bond of the petitioner.

(Alok Kumar Pandey, J)

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