

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60416 of 2023

Arising Out of PS. Case No.-136 Year-2021 Thana- KHARIK District- Bhagalpur

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VIJAY PRASAD @ VIJAY PRASAD YADAV @ VIJAY YADAV S/O
RAMCHANDRA PRASAD YADAV @ RAM CHANDRA RAY RESIDENT
OF VILLAGE KOIRAGAWAN, PS- KOTWA, DIST- EAST CHAMPARAN

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Ms. Rashmi Jha, Advocate
For the Opposite Party/s : Mr. Bharat Bhusan, APP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 08-09-2023 Heard Ms. Rashmi Jha learned counsel for the

petitioner and Mr. Bharat Bhusan learned APP for the State.

2. The petitioner is in custody since 12.07.2023 in connection with Kharik P.S. Case No. 136 of 2021 for the offence punishable under Sections 30 (a), 38 (i) of the Bihar Prohibition and Excise Act lodged on 30.06.2021 by the informant Pankaj Kumar.

3. As per the prosecution story, the allegation is that a truck was intercepted, the driver escaped whereas, the cleaner Laddo Singh was apprehended. On search, 10,720 liters spirit was recovered/seized. It was disclosed by the co-driver/cleaner that this spirit was brought on the order of other co-accused



persons and this petitioner. Accordingly the FIR.

4. It is the case of the petitioner that he has not been arrested from the spot, on the basis of confessional statement of the co-accused Laddo Singh, the name cropped up, he is not the owner of the truck and in custody since 12.07.2023 (as stated in para 17 of the bail petition).

5. Further submission is that without accepting the allegation and/or the outcome of the present petition, petitioner would like to pay Rs. 50,000/- with the Patna High Court Legal Services Committee through Demand Draft issued by the local State Bank of India branch.

6. Learned APP opposes the prayer stating that a bare perusal of paragraph 3 would show that he has cases lodged under his belt of the same nature.

7. Considering the submission put forward by the learned counsel for the parties, he is neither the driver nor the cleaner nor even the owner, name has come in the confessional statement and he is in custody since 12.07.2023, this Court is inclined to extend him the privilege of bail subject to payment with conditions, subject to payment of Rs. 50,000/-as stated above, undertaken given by the learned counsel for the petitioner.



8. 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 Special Excise Judge 1, Bhagalpur, in connection with Kharik P.S. Case No. 136 of 2021 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.



8. With the aforesaid observations, the bail application
is allowed.

(Rajiv Roy, J)

Jagdish/Jyoti/-

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