

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61226 of 2023

Arising Out of PS. Case No.-206 Year-2022 Thana- GOVERNMENT OFFICIAL COMP.
District- Nalanda

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Ajay Choudhary @ Vijay @ Ajay Kumar Choudhary S/O Kesho Choudhary,
R/O Village- Gulni, P.S.- Deepnagar, Distt.-Nalanda.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Onkar Nath, Advocate Mr. Mukesh Kumar Pandey, Advocate Mr. Panchanand Kumar, Advocate
For the Opposite Party/s :		Mr. Upendra Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

2 06-10-2023 Heard Ld. counsel for the petitioner and Ld. APP for
the State.

2. The petitioner seeks regular bail in connection with
Excise P. S. Case No. 206 of 2022 dated 28.09.2022, registered
for the offence punishable under Section 30(a) of the Bihar
Prohibition and Excise (Amendment) Act, 2018.

3. Ld. counsel for the petitioner submits that vide
order dated 10.02.2023 petitioner was directed to be enlarged on
bail in Excise P. S. Case No. 206 of 2022 passed in Cr. Misc.
No. 71291 of 2022, subject to the following conditions:

*“(i) The petitioner will make himself available for
interrogation by a police officer/court as and when required.*

(ii) The petitioner will undertake that

investigation/trial will not get hampered on account of his absence or non-cooperation. He must be available to the police or the court whenever his presence is required.

(iii) The petitioner shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.

(iv) In case, it is brought to the notice of the court below that the petitioner has criminal antecedents other than the disclosed one, Ld. court below shall cancel the bail bonds of the petitioner after hearing him and getting satisfied that the petitioner has concealed his criminal antecedents despite his knowledge of the same.

(v) In case, it is brought to the notice of the court below that statement regarding previous bail petition is wrong, Ld. court below shall cancel the bail bonds of the petitioner.

(vi) In case, the petitioner repeats offence of similar nature after enlargement on bail, his bail-bond will be cancelled by the court below.”

4. It is further submitted by the counsel for the petitioner that during pendency of the Cr. Misc. No. 71291 of 2022, petitioner was given benefit of Section 167(2) of Cr.P.C.

and enlarged on bail by Ld. Trial Court. However, same was not informed by the conducting counsel to this Court in the proceeding wherein bail was granted by this Court vide order dated 10.02.2023. Hence, Ld. Trial Court was unaware of the pendency of the Cr. Misc. No. 71291 of 2022, because the same was not informed to the trial court in his petition under section 167(2) of Cr.P.C. Hence, on account of concealment of this fact, Ld. Court below cancelled the bail bond of the petitioner and took him into custody. Moreover, one additional case bearing Deepnagar P.S. Case No. 223 of 2023 was registered for the offence punishable under Sections 30(a) of Bihar Prohibition and Excise (Amendment) Act, 2018 against the petitioner on account of recovery of 10 litre illicit liquor from his possession, in which he has already been enlarged on bail by the Co-ordinate Bench of this Court, as per statement of learned counsel for the petitioner. Hence, the petitioner is languishing in jail on account of Excise P.S. Case No. 206 of 2022, which has been registered against him on account of recovery of 3 litre illicit liquor from his possession. Ld. counsel further submits that on account of lapse on the part of the conducting counsel in this Court, the petitioner is still languishing in jail for small quantity of illicit liquor recovered from his possession. He

tenders unconditional apology for such lapse and prays for doing justice to the petitioner, who is poor and uneducated villager.

5. However, Ld. APP for the State opposes the prayer of the petitioner for bail.

6. Considering the aforesaid facts and circumstances, this application is allowed, directing the petitioner, above-named, to be enlarged on bail on his furnishing bail bonds in the sum of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Ld. Additional Sessions Judge-IV cum Exclusive Special Court (Excise) No.2, District – Nalanda at Biharsharif, in connection with Excise P. S. Case No. 206 of 2022, on the following conditions:

(i) The petitioner will make himself available for interrogation by a police officer/court as and when required.

(ii) The petitioner will undertake that investigation/trial will not get hampered on account of his absence or non-cooperation. He must be available to the police or the court whenever his presence is required.

(iii) The petitioner shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from

disclosing such facts to the court or to any police officer.

(iv) In case, it is brought to the notice of the court below that the petitioner has criminal antecedents other than the disclosed one, Ld. court below shall cancel the bail bonds of the petitioner after hearing him and getting satisfied that the petitioner has concealed his criminal antecedents despite his knowledge of the same.

(v) In case, it is brought to the notice of the court below that statement regarding previous bail petition is wrong, Ld. court below shall cancel the bail bonds of the petitioner.

(vi) In case, the petitioner repeats offence of similar nature after enlargement on bail, his bail-bond will be cancelled by the court below.

7. Ld. counsel for the petitioner is directed to remove all the defects, if any, pointed out by the office within a period of one month and the Registry is directed to issue the certified copy of this order only after removal of office objections.

(Jitendra Kumar, J.)

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