

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62008 of 2023

Arising Out of PS. Case No.-379 Year-2023 Thana- MASHRAK District- Saran

Rakesh Kumar Prasad Son Of Kameshwar Rai Village Rampur Jagdish, P.S.
Dariyapur, Dist. Saran

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjiv Sharan, Advocate

For the Opposite Party/s : Mr. Brajendra Nath Pandey, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 25-09-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. Petitioner seeks bail who is in custody since 20.07.2023 in connection with Mashrakh P.S. Case No. 379 of 2023, F.I.R. dated 18.07.2023 for the offences punishable under Sections 30(a) of Bihar Prohibition and Excise Act.

3. According to prosecution case, there has been recovery of 1375 liters of illegal liquor from the *dalan* of co-accused Nagendra Singh. Accordingly, the FIR.

4. Learned counsel for the petitioner submits that petitioner is innocent and he has falsely been implicated in the present case. He further submits that on the basis of confessional statement of co-accused person, namely, Nagendra Singh, who stated that the petitioner and co-accused persons have delivered the spirit in question. Further submits that the



allegation as alleged in the FIR is false and fabricated and the petitioner has not committed any offence and nothing has been recovered from his possession or the house of the petitioner, rather recovery has been made from the open field of the Nagendra Singh and shop of the Nagendra Singh and except the disclosure made by the co-accused person, no other material has been found against the petitioner. He further submits that similarly situated, co-accused, namely, Lalan Rai has been granted bail by a co-ordinate Bench of this Court vide order dated 12.09.2023 passed in Cr. Misc. No. 60432 of 2023. The petitioner is in custody since 20.07.2023.

5. The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner on the ground that petitioner carries two criminal antecedent other than the present one, but fairly submits on the basis of paragraph-3 of the petition that in both the cases petitioner is on bail.

6. Considering the aforesaid facts and circumstances, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned 2nd Exclusive Special Excise Judge, Saran at Chapra in connection with Mashrakh P.S. Case No. 379 of 2023, subject to the



following conditions:-

i. 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.

ii. 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.

iii. 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 antecedent, 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)

Prakash Narayan /-

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