

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59247 of 2022

Arising Out of PS. Case No.-334 Year-2019 Thana- SARAIYA District- Muzaffarpur

Arbind Rai @ Arbind Kumar Son of Late Kishori Ray R/V- Mohamadpur
Manorath, P.S- Vaishali, Dist- Vaishali at Hajipur. But in the F.I.R. it has been
wrongly mentioned as village Kailapatti, P.S- Saraiya, Dist- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bijay Bhushan Prasad, Adovcate.

For the Opposite Party/s : Mr. Arun Kumar, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 04-01-2023 Learned counsel for the petitioner is permitted to
remove the defect(s), as pointed out by the office, within a
period of four weeks from today.

Heard Mr. Bijay Bhushan Prasad, learned counsel for
the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in
connection with Saraiya P.S. Case No. 334 of 2019, registered
for the offences punishable under Sections 272, 273, 414/34 of
the Indian Penal Code and Sections 30(a), 32(ii), 38(ii), 41(i) of
the Bihar Prohibition and Excise Act, 2016.

As per the prosecution case, it is alleged that the
police on secret information that some persons are indulged in
loading and unloading of illicit wine, conducted raid and



intercepted three vehicles. On search total 6168.600 liters Indian made foreign liquor was recovered. It is further alleged that the local spy and chaukidar disclosed that the consignment was brought by the petitioner Arvind Rai and his associates and on the said basis the petitioner has been made accused in this case.

Learned counsel appearing on behalf of the petitioner submits that the petitioner was neither apprehended at the spot nor any incriminating material has been recovered from his person and possession. He further submits that the petitioner has neither any concern with the vehicle which was seized by the police, nor he has anyhow related to the place from where recovery has been made. He next submits that save and except the disclosure made by the local spy/chaukidar, there is no iota of materials suggesting the complicity of the petitioner in the crime. He also submits that in fact on account of his past criminal antecedent, his name has been implicated in this case, however, he submits that out of seven cases, which has been mentioned in paragraph 3 of the bail petition, he has been granted bail in all the cases. While concluding his submission he lastly submits that petitioner is in custody since 23.08.2022, and he is ready to give undertaking that he will fully cooperate in the investigation and the trial.



On the other hand learned APP for the State vehemently opposes the bail application and submits that the petitioner is found involved in 6-7 other criminal cases and the witnesses/local people disclosed the name of the petitioner as the member of the syndicate.

Regard being had to the submissions made on behalf of the parties and considering the fact that the petitioner was neither apprehended at the spot nor any incriminating material has been recovered showing the complicity of the petitioner in the present crime, apart from the fact that save and except the disclosure made by the villagers/spy, there is no other materials and moreover the criminal antecedent of a person cannot be the sole ground to refuse bail. Further, the investigation of the crime is already complete and the charge-sheet has been submitted, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.25,000/- (Rupees twenty-five thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise-II, Muzaffarpur, in connection with Saraiya P.S. Case No. 334 of 2019, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the



trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) 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 immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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