

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59252 of 2022

Arising Out of PS. Case No.-359 Year-2019 Thana- ATRI District- Gaya

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Bhola Yadav Son of Late Chamari Yadav @ Bhuneshwar Yadav Resident of
village - Dariyapur Tola Jamalchak, P.S.- Atri, District - Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Binod Kumar Sinha, Advocate.

For the Opposite Party/s : Mr. Damodar Prasad Tiwary, APP.

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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. Binod Kumar Sinha, learned counsel for
the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in
connection with Atri P.S. Case No. 359 of 2019, registered for
the offences punishable under Sections 272, 273 of the Indian
Penal Code and Section 30(a)(d) of the Bihar Prohibition and
Excise Act, 2016.

The police on secret information raided the house of
the petitioner and on search total 20 liters country made liquor
along with other utensils used for the purpose of manufacturing
wine were recovered.

Learned counsel appearing on behalf of the petitioner



submits that the petitioner is an old person living in a joint family house, where allegedly the recovery has been made. He submits that in the said house several persons reside and the petitioner cannot be held responsible for the same inasmuch as the petitioner having fair antecedent, is in custody since 04.07.2022, though the investigation of the crime is already complete and the charge-sheet has been submitted. While concluding his submission he lastly submits that there is complete defiance of Section 100 of Cr.P.C. as well as Section 81 and 82 of the Bihar Prohibition and Excise Act, 2016, apart from the fact that both the witnesses to the seizure are village Chaukidar and the copy of the seizure list has not been handed over either to the petitioner or any of the family members of the petitioner.

On the other hand learned APP for the State vehemently opposes the bail application and submits that the alleged recovery of the illicit wine and the incriminating utensils used for manufacturing of wine have been recovered from the house of the petitioner and as such his complicity cannot be denied.

Regard being had to the submissions made on behalf of the parties and considering the fair antecedent of the



petitioner and the fact that the investigation of the crime is already complete and the charge-sheet has been submitted, apart from other infirmities in the preparation of seizure list, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Excise Court No. I, Gaya, in connection with Atri P.S. Case No. 359 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.

(Harish Kumar, J)

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