

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62218 of 2022

Arising Out of PS. Case No.-373 Year-2021 Thana- GAYA MUFASIL District- Gaya

BHOLA RAI S/o Late Basudeo Rai R/o Village- Motipur, P.S.- Motipur,
Distt- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Abhishek Kumar

For the Opposite Party/s : Mr.Rajesh Kumar

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 04-01-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks bail in connection with Muffasil
P.S. Case No. 373/2021 registered for the offences punishable
under Sections 420, 467, 468, 471 of the Indian Penal Code and
Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

As per prosecution case, there is alleged recovery of
total 6000 liters spirit from the truck in question. Apprehended
co-accused Jhulan Mahto disclosed that petitioner is involved in
business of illicit liquor.

Learned counsel for the petitioner submits that
petitioner is innocent and has falsely been implicated in this
case on the basis of criminal antecedent of the petitioner. The
petitioner is not apprehended on the spot and nothing has been
recovered from the conscious possession of the petitioner. The



petitioner is languishing in custody since 24.04.2022. Learned counsel for the petitioner specifically submits that the petitioner bears criminal antecedent of 10 cases and in all cases he is on bail. The name of petitioner transpired in this case on the basis of confessional statement of co-accused Jhulan Mahto. Except confessional statement of co-accused, there is nothing on record to demonstrate the complicity of the present petitioner with the alleged occurrence. He further submits that the petitioner is neither owner nor driver of the said truck in question. Charge sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence. Apprehended co-accused Jhulan Mahto who disclosed the name of petitioner, has already been granted bail by the co-ordinate Bench of this Court vide Cr. Misc. No.69450/2021 and the case of present petitioner stands on better footing.

The learned A.P.P. for the State vehemently opposed the prayer for bail of the petitioner.

Considering the facts and circumstances of the case, period of custody, co-accused has already been granted bail, petitioner is not apprehended on the spot, charge sheet has already been submitted in this case and there is no likelihood of tampering with the prosecution evidence, argument advanced on



behalf of both sides and also taking into consideration the material available on record, let the petitioner above named be released on bail **after framing of charge** 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 Exclusive Special Excise Court No.01, Gaya in Muffasil P.S. Case No. 373/2021, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial Court itself.

(iii) 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.

(iv) Petitioner shall furnish mobile number at the time of furnishing bail bond and the said mobile number shall continue in operating condition till disposal of the case and he shall get his presence marked before the officer-in-charge of the concerned police station on the first Tuesday of every month.



(v) Petitioner shall not leave the territorial jurisdiction of the concerned trial court without appropriate permission of the court concerned.

(vi) If the petitioner violates any of the conditions as enumerated above, the learned trial court shall be at liberty to cancel the bail bond of the petitioner.

(Alok Kumar Pandey, J)

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