

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71036 of 2023

Arising Out of PS. Case No.-240 Year-2023 Thana- BALIYA District- Begusarai

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Gautam Kumar Mishra, Son Of Late Brahmanand Mishra, Resident Of
Village- Bathua Buzurg, Ps- Musarigharari, Dist- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sshashi Priya Pathak, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 07-11-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner seeks regular bail in connection with
Balua P.S. Case No. 240/2023 lodged on 26.08.2023 under
Sections 30(a)/32/41(i)(ii) of the Bihar Prohibition and Excise
(Amendment) Act, 2018 and Sections 290/120B of the Indian
Penal Code.

3. As per the prosecution case, total recovery of
2432.52 litres of country made liquor is the subject matter of the
present case.

4. Learned counsel for the petitioner submits that the
petitioner is innocent and has committed no offence. Nothing
incriminating has been recovered from the conscious physical
possession of the petitioner, but the police with ulterior motive



have booked the petitioner in the present case under a conspiracy. The petitioner has no concern either with the alleged illicit liquor or with the pick up van from which the said recovery has been made. The petitioner is in custody since 26.08.2023 having clean antecedent.

4. Learned counsel for the State opposes the prayer for bail and submits that huge quantity of illicit liquor has been recovered from a pick-up of which the petitioner was alleged to be a driver.

5. In the present facts and circumstances of this case and the submissions made above, particularly in view of the fact that the antecedent of the petitioner is clean, let the petitioner above named, be released on bail, **but only after framing of charge**, on furnishing bail bonds of Rs.30,000/- (Rupees Thirty thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Excise Judge-II, Begusarai, in connection with Balia P.S. Case No. 240/2023, subject to the conditions as laid down under Section 437(3) of the Code of Criminal Procedure with other following conditions:

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his



bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bonds by the Trial Court itself;

(iii) the petitioner shall appear before the concerned police station every month for one year to mark attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidence, failing which the State shall be at liberty to take steps for cancellation of the bail bonds; and

(v) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

(Dr. Anshuman, J)

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