

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72769 of 2022

Arising Out of PS. Case No.-316 Year-2022 Thana- KUCHAIKOTE District- Gopalganj

Mithilesh Kumar, S/o Umashankar Singh @ Dugri Singh R/o Village- Kotwa,
P.S.- Kotwa, Distt- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Priyesh Kumar

For the Opposite Party/s : Mr. Arvind Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

2 12-01-2023 This case is listed for hearing out of turn on account of mentioning that wife of the petitioner is suspected to have breast cancer and she requires to be taken to Bombay for treatment.

Heard Ld. counsel for the petitioner and Ld. APP for the State.

The petitioner seeks bail in connection with Kuchaikote P. S. Case No. 316 of 2022, registered for the offences punishable under Sections 30(a), 32(2) and 41(i) of the Bihar Prohibition and Excise Act, 2016 and Bihar Prohibition and Excise (Amendment) Act, 2018.

As per allegation, 1755 litres of liquor was



recovered from a truck, bearing Registration No. UP81-BT-0542.

Ld. counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. He further submits that petitioner is neither named in the F.I.R. nor arrested on the spot. He also submits that his name transpires in the confessional statement of one of the co-accused, Bittu Yadav. He further submits that nothing has been recovered from the conscious possession of the petitioner. He also submits that the petitioner has no concern with the said vehicle; he is neither the owner nor the driver.

He further submits that the petitioner has been languishing in jail since 12.11.2021.

It has also been stated in paragraph no. 3 of the bail petition that the petitioner has earlier been made accused in two other cases, but in both the cases he is on bail.

It is also stated in paragraph no. 2 of the bail petition that the petitioner has not moved this Court earlier either for anticipatory bail or regular one.



However, Ld. APP for the State vehemently opposes the prayer of the petitioner for bail.

Considering the aforesaid facts and circumstances, this application is allowed, directing the petitioner, above-named, to be enlarged on bail on his furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) with two sureties of the like amount each to the satisfaction of Ld. Additional District and Sessions Judge -IV cum Exclusive Special Excise Court-II, Gopalganj, in connection with Kuchaikote P. S. Case No. 316 of 2022 on the following conditions:

(i) The petitioner will make himself available for interrogation by a police officer/court as and when required.

(ii) The petitioner will undertake that investigation/trial will not hamper on account of his absence or non-cooperation. He must be available to the police or the court whenever his presence is required.

(iii) The petitioner shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police



officer.

(iv) In case, it is brought to the notice of the court below that the petitioner has criminal antecedents other than the disclosed one, Ld. court below shall cancel the bail bonds of the petitioner after hearing him and getting satisfied that the petitioner has concealed his criminal antecedents despite his knowledge of the same.

(v) In case, it is brought to the notice of the court below that statement regarding previous bail petition is wrong, Ld. court below shall cancel the bail bonds of the petitioner.

It is made clear that in case the ground of out of turn hearing as mentioned by Ld. Counsel for the petitioner is found to be false by the court below on information provided by the informant and the court below getting satisfied that the ground mentioned for out of turn hearing is false, the court below shall cancel the bail-bonds of the petitioner.

Ld. counsel for the petitioner is directed to remove all the defects, if any, pointed out by the office within a



period of one month and the Registry is directed to issue the
certified copy of this order only after removal of office
objections.

(Jitendra Kumar, J)

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