

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77310 of 2023

Arising Out of PS. Case No.-120 Year-2023 Thana- KOCHADHAMAN District- Kishanganj

SHAHNAWAZ Son of Md. Harun R/o Village - Raniganj, Ward No.- 11, P.S.-
Raniganj, District - Araria.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Amal Kumar Sinha

For the Opposite Party/s : Mr.Tarkeshwar Nath Thakur

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 04-12-2023

Heard learned counsel for the petitioner and learned

A.P.P. for the State.

2. The petitioner seeks bail in connection with Case No. Special 263/2023 arising out of Kochadhaman P.S. Case No. 120/2023 registered for the offences punishable under Sections 30(a), 32, 41 and 47 of the Bihar Prohibition and Excise Act, 2016.

3. As per prosecution case, there was alleged recovery of 69 liters foreign liquor from Sumo vehicle in question and 48 liters of foreign liquor was recovered from Wagon-R vehicle. The petitioner was driver of the Wagon-R vehicle and he apprehended on the spot alongwith others.

4. Learned counsel for the petitioner submits that petitioner is innocent and has falsely been implicated in this case. Nothing has been recovered from the conscious possession of the petitioner and he has nothing to do with the alleged occurrence. The petitioner is languishing in custody since 08.05.2023. Learned



counsel for the petitioner submits through supplementary affidavit that in para 2 of the bail petition, it has already been mentioned that the petitioner has no criminal antecedent but inadvertently in para 3 of the bail petition it has been mentioned that petitioner has been implicated by police in Raniganj P.S. Case No.29/2021. He further submits that in fact the petitioner has no criminal antecedent. He further submits that the petitioner has no concerned with the alleged seized liquor. He further submits that the petitioner is not the owner of the alleged vehicle in question. He is merely a driver of the Wagon-R vehicle and has no knowledge regarding the alleged liquor that has been kept in the said vehicle. The petitioner has to follow the instruction of his owner to earn the livelihood. He further submits that the seizure list has not been prepared as per the law. He orally submits that charge sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence. Co-accused Md. Kalam @ Kalam, who is apprehended on the spot, has already been granted bail by the co-ordinate Bench of this Court vide Cr. Misc. No.73502/2023 and the case of present petitioner stands more or less on similar footing as he also apprehended on the spot.

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

6. Considering the facts and circumstances of the case, period of custody, keeping in view clean antecedent of petitioner, 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 on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District Judge-II cum Special Judge, (Excise-I), Kishanganj in connection with Case No. Special 263/2023 arising out of Kochadhaman P.S. Case No. 120/2023, 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.

(Alok Kumar Pandey, J)

amitkumar/-

U		T	
---	--	---	--

