

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76599 of 2023

Arising Out of PS. Case No.-172 Year-2022 Thana- MAHESHKHUNT District- Khagaria

SAGIR HUSSAIN SON OF SANULLAH SHEKH R/O OF VILLAGE-
GUTLONG, TEJPUR, P.S.- TEJPUR, DISTRICT- SONITPUR (ASSAM).

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Santosh Kumar Singh

For the Opposite Party/s : Mr.Suresh Prasad Singh

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 01-12-2023 Learned counsel for the petitioner is permitted to
make necessary correction in para 11 of the bail petition during
course of the day.

2. Heard learned counsel for the petitioner and
learned A.P.P. for the State.

3. The petitioner seeks bail in connection with
Maheshkhunt P.S. Case No. 172/2022 registered for the offences
punishable under Sections 30(a), 32 (i) (ii)/41 of the Bihar
Prohibition and Excise Act.

4. As per prosecution case, there was alleged
recovery of total 2500.6 liters foreign liquor from mini truck in
question and co-accused Navin Dagar and Vikrant Kumar
apprehended on the spot. Apprehended co-accused disclosed
that alongwith the said truck, one more truck bearing



Registration No.WB73G-0127 having loaded with illicit liquor which was driven by Sagir Hussain (petitioner) and while transporting the said liquor the petitioner was apprehended by the Araria Police and truck was also seized.

5. Learned counsel for the petitioner submits that petitioner is innocent and has falsely been implicated in this case. The petitioner is not named in the FIR and apprehended co-accused disclosed the name of the present petitioner. He further submits that except confessional statement of co-accused, there is nothing on record to demonstrate the complicity of the present petitioner with the alleged occurrence. The petitioner was not apprehended at the place of occurrence, basically, he was remanded in this case from Araria P.S. Case no.600/2022 on 30.01.2023 and since then he is in custody. He further submits that in the present case, the alleged occurrence took place on 22.07.2022 but prior to the said alleged date of occurrence, the petitioner was already in custody since 18.07.2022 in connection with Araria P.S. Case no.600/2022. The petitioner bears criminal antecedent of one case in which he is on bail. He further submits that the petitioner has nothing to do with the alleged occurrence and nothing has been recovered from the conscious possession of the petitioner. He further



submits that the petitioner was neither concerned with the said truck nor was concerned with the seized liquor. He orally submits that charge sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence. FIR named co-accused namely Vikrant Kumar, Navin Dagar @ Nabin Dagar have already been granted bail by the different co-ordinate Benches of this Court vide Cr. Misc. No.66036/2022 and Cr. Misc. No.3318/2023 and the case of present petitioner stands on better footing as he is not named in the FIR.

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

7. Considering the facts and circumstances of the case, period of custody, co-accused persons have already been granted bail, charge sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence and 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 Special Excise Judge-2nd, Khagaria in connection with



Maheshkhunt P.S. Case No. 172/2022, 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)

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