

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.80159 of 2023

Arising Out of PS. Case No.-353 Year-2023 Thana- Excise P.S. District- Gopalganj

Upendra Kumar Prasad @ Upendra Kumar Byahut S/O Mahesh Prasad R/O
Village- Jalalpur Kalwari Tola, P.S- Kuchaikote, Distt.- Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Umesh Kumar Singh
For the Opposite Party/s : Mr.Nitya Nand Tiwary

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 20-12-2023 Learned counsel for the petitioner is permitted to
make necessary correction in para 18 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 Excise
P.S. Case No. 353/2023, Trial No.3609/2023 registered for the
offences punishable under Section 30(a) of the Bihar Prohibition
and Excise (Amendment) Act, 2018.

4. As per prosecution case, there was alleged
recovery of total 97.500 liters illegal wine from the outer side of
scrap shop and the apprehended co-accused Hareshyam Prasad
disclosed the name of petitioner who fled away from the place
of occurrence.



5. Learned counsel for the petitioner submits that petitioner is innocent and has falsely been implicated in this case due to inimical terms with the apprehended co-accused Hareshyam Prasad. The petitioner has nothing to do with the alleged occurrence and nothing has been recovered from the conscious possession of the petitioner. The petitioner bears criminal antecedent of one case. The petitioner is not apprehended on the spot. He further submits that the petitioner has been remanded in this case on 09.09.2023 from Gopalganj Excise P.S. Case No.781/2023 and since then he is languishing in jail custody. He further submits that except disclosure of the co-accused, there is nothing on recorded to demonstrate the complicity of the present petitioner with the alleged occurrence. He further submits that the petitioner was neither concerned with the place of recovery nor was concerned with the seized liquor. He further submits that the seizure list has not been prepared as per the law.

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, the petitioner is not apprehended on the spot, 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 and Sessions Judge IV cum Special Judge, Excise Court No.-II, Gopalganj in connection with Excise P.S. Case No. 353/2023, Trial No.3609/2023, 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)

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