

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60352 of 2024

Arising Out of PS. Case No.-319 Year-2024 Thana- MALSALAMI District- Patna

Nitish Kumar, Son of Manohar Rai @ Manoha Ray, R/O- Sarphabad, P.S.-
Raghopur, Distt.- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ram Jiban Pd Singh, Advocate

For the Opposite Party/s : Md. Anzarul Haque Sahara, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 31-08-2024 Heard Mr. Ram Jiban Prasad Singh, learned Advocate
for the petitioner and learned APP for the State.

2. The petitioner seeks regular bail, who is in custody
in connection with Malsalami P.S. Case No. 319 of 2024
registered for the offence punishable under Section 30 (a) of the
Bihar Prohibition and Excise Act.

3. In course of conducting raid with respect to search
of illegal liquor, the police tried to intercept three motorcycles
riders. However, on noticing the police party, two of the
motorcycle riders succeeded in fleeing away after leaving their
motorcycles and one has been apprehended. The apprehended
person disclosed his name as Nitish Kumar (petitioner) and on
search total 150 litres of Mahua liquor was recovered.

4. Learned Advocate for the petitioner contended that



the petitioner is neither the rider of the motorcycle nor the owner of the alleged seized motorcycles. However, only on suspicion, the name of the petitioner has been implicated in this case, as he was found present while accused persons succeeded in fleeing away from the place of occurrence. It is next contended that the petitioner bears fair antecedent and he has never been found involve in such type of activities, moreover, the alleged recovery has been made from a public road, but there is no independent witness to the search and seizure and, as such, there is complete defiance of Section 100 of the Cr.P.C. The petitioner is in custody since 10.07.2024 and the investigation of the crime is complete.

5. On the other hand, learned APP for the State opposes the bail application.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that the investigation of the crime is complete and the petitioner has no concern with the motorcycles, in question, coupled with the fair antecedent of the petitioner, let the petitioner, named above, 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 learned Exclusive Special Court of Excise, Patna



City, Patna in connection with Malsalami P.S. Case No. 319 of 2024, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the trial.
- (ii) He will remain present on each and every date of trial till disposal of the case.
- (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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