

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.86087 of 2023

Arising Out of PS. Case No.-366 Year-2023 Thana- NAUTAN District- West Champaran

KAILASH MAHTO SON OF ASARFI MAHTO Resident Of Village -
Bagahi Nonia Tola, P.S. - Bairiya, District - West Champaran

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ram Kishun Prasad

For the Opposite Party/s : Mr.Lalan Kumar, APP

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 22-01-2024 Learned counsel for the petitioner is permitted to

make necessary correction in para 8 of the bail petition filed on

behalf of the petitioner during the course of the day.

Heard learned counsel for the petitioner and learned

A.P.P. for the State.

3. The petitioner seeks bail in connection with

Nautan P.S. Case No. 366 of 2023 registered for the offences

punishable under Sections 414 and section 30(a) of the Bihar

Prohibition and Excise Act.

4. As per prosecution case, petitioner is said to

have apprehended on the spot being driver of the tempo in

question and from the said tempo 54 litre foreign liquor was

recovered.

5. Learned counsel for the petitioner submits that



petitioner is in custody since 01.09.2023 and bears criminal antecedent of one case in which he is on bail. Learned counsel orally submits that charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence. He further submits that petitioner is not the owner of the tempo in question and petitioner being driver has to follow the instruction of his owner to earn livelihood. Nothing has been recovered from the conscious possession of the petitioner. Petitioner is quite innocent and has falsely been implicated in the case.

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

7. Considering the facts and circumstances of the case, period of custody, 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 bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, Excise 1st Bettiah, West Champaran in connection with Nautan P.S. Case No. 366 of 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)

vashudha/-

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