

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.30541 of 2020**

Arising Out of PS. Case No.-258 Year-2020 Thana- GOVERNMENT OFFICIAL COMP.
District- Sitamarhi

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BISHANU MAHTO @ VISHNU MAHTO Son of Birju Mahto @ Briju
Mahto R/o Village- Chilri, Ward No.7, P.S.- Sonbarsa, District- Sitamarhi
... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Ashok Kumar Jha,Advocate

For the Opposite Party/s : Mr.Dr.Mrityunjay Kumar Gautam, APP

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 23-11-2020 Learned counsel for the petitioner undertakes to remove

all the defects pointed out by the Stamp Reporter within four weeks

after start of normal functioning of the Court.

Heard learned counsel for the petitioner and learned APP
for the State.

The petitioner in the present case is seeking regular bail in
connection with Complaint Case No. C2-258 of 2020 registered for
the offence punishable under Section 30(a) of the Bihar Prohibition
& Excise Act.

Learned counsel for the petitioner submits that the SSB
Personnel arrested the petitioner and one another accused Dipak
Paswan and recovered 960 bottles of Nepali liquor each containing
300 ml. and also seized a motorcycle.

It is submitted that the seizure memo has been prepared in
violation of the established procedure of law as no witness has signed



the same. It is further submitted that the real culprit managed to escape and the petitioner has been made victim of police atrocities and further that the motorcycle from which the alleged recovery of liquor has been made does not belong to the petitioner.

Learned APP for the State has opposed the prayer for regular bail of the petitioner.

Having regard to the facts and circumstances of the case where it is the submission of learned counsel for the petitioner that the motorcycle from which the alleged illicit liquors have been recovered does not belong to the petitioner and further that the seizure memo has been made in complete violation of law as also that the petitioner who has otherwise no criminal antecedent has remained in jail in connection with this case since 03.07.2020 and there is no submission on behalf of the State that his release at this stage is in any way likely to result in tampering with the evidence or interfering with the course of trial, let the petitioner above named be released on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned 2nd Additional Sessions Judge-cum-Special Judge, Excise, Sitamarhi in Complaint Case No. C2-258 of 2020, subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,



(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that he will abide by and observe the guidelines and directives of the Government of India and the State Government with regard to COVID-19 Pandemic.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner.

This application is allowed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

