

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.17886 of 2021**

Arising Out of PS. Case No.-44 Year-2020 Thana- SIKTI District- Araria

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DHARMENDRA MAHTO S/o Gajendra Mahato @ Gajendra Mahto
Resident of Village- Bind Tola, Dhapri, Ward No. 02 Balua, P.S.- Palasi,
District- Araria.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr. Kundan Kumar Singh, Advocate

For the Opposite Party/s : Mr. Md. Fahimuddin, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 02-07-2021 Learned counsel for the petitioner undertakes to

remove all the defects as pointed out by office within four

weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and learned

A.P.P. for the State.

Petitioner in the present case is seeking regular bail in

connection with Spl. Case No. 248 of 2020 arising out of Sikti

P.S. Case No. 44 of 2020 registered for the offences punishable

under Section 30(a) of the Bihar Prohibition and Excise Act,

2016.

As per the prosecution story the informant who is a

police officer got secret information that five persons will be

coming from Nepal with illegal liquor. The police reached at the



place of occurrence and saw five persons carrying liquor on their head. On seeing the police team they tried to flee away, while four of them succeeded in fleeing away one of them was apprehended and disclosed his name Sanjeet Mahto and also disclosed the name of the accused persons including this petitioner. Upon search a total 53.1 litres Nepali country made liquor was recovered from the possession of co-accused Sanjeet Mahto.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in this case. It is further submitted that the petitioner was not apprehended on the spot and his name has been dragged in this case by the police in the statement of apprehended accused. It is further submitted that the seizure list has not been prepared in accordance with law and nothing has been recovered from conscious possession of the petitioner. The petitioner is in custody since 03.01.2020 having no criminal antecedent.

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 wherein it is the submission of learned counsel for the petitioner that the petitioner was not arrested on the spot, the



apprehended accused disclosed the name of the petitioner, however, the recovery of 53.1 liters of Nepali country made liquor is from the co-accused Sanjeet Mahto and the seizure list has not been prepared in accordance with law, the petitioner is in custody since 03.01.2021, investigation against him is complete but the trial is not likely to take place in near future, 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-Spl. Judge, Araria in connection with Spl. Case No. 248 of 2020 arising out of Sikti P.S. Case No. 44 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 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. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

This application stands disposed of accordingly.

(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'.

