

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22930 of 2021

Arising Out of PS. Case No.-211 Year-2020 Thana- SUPPI District- Sitamarhi

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Jitu Sahani @ Jeetu Sahani, aged about 30 years, Gender-Male, Son of Jagu Sahani Resident of Village- Ramnagara, P.S.- Suppi, District- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Birendra Kumar, Adv.

For the Opposite Party/s : Mr. Braj Kishore Prasad APP

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 18-08-2021 In view of the sudden resurgence of Covid-19 infection, there is limited functioning of the High Court and, therefore, the matter has been listed today for consideration through virtual mode.

Learned counsel for the petitioner is expected to honour his undertaking given in the instant case for depositing the requisite court fee and to remove the defects as pointed out by office when called upon to do so by the office.

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

The petitioner seeks bail in Suppi P S Case No. 211 of 2020, instituted for the offence under Sections 272 and 273 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act, 2018.



The matter has been listed out of turn on a motion being made by the counsel for the petitioner based on supplementary affidavit filed on behalf of petitioner. It has been stated that the petitioner's father died on 12.08.2021 and that he is the only son and, therefore, required for discharging his last obligation in so far as the last rites and ceremonies are concerned. Under such circumstances, the matter has been listed for consideration on priority basis, but on merits.

The learned counsel for the petitioner, on merits, submits that 639 litres *Nepali* Saufi wine, as per prosecution case, has been recovered from bushes on the river bank. The petitioner's implication is only on the basis of alleged secret information that he along with other has brought the same for illicit trade. It is further submitted that the petitioner was remanded in the instant case from another case, in which, he was arrested and, thereafter, he has been in custody in connection with this case since 25.01.2021. Even, as per prosecution case, recovery is from an open place, which is accessible to one and all, for which, criminal liability cannot be attributed to the petitioner. Co-accused, namely, Dablu Singh and Kumar Sahani @ Kumar Sahini @ Ram Kumar Sahini @ Ram Kumar Sahani have been allowed bail in Cr. Misc. Nos. 13153 of 2021 and 12949 of 2021



respectively.

The learned APP representing the State has opposed the prayer for bail. It is submitted that the local '*Chowkidar*' has identified the petitioner as being responsible for bringing the illicit liquor for its trade.

Considering the rival submissions as also the facts and circumstances of the case, this Court, for the purposes of grant of bail, is inclined to accept the submissions advanced by the petitioner's counsel. Prayer for bail of the petitioner is allowed. Let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/-(Ten thousand) with two sureties of the like amount each to the satisfaction of the learned **Additional District and Sessions Judge-II-cum- Special Judge (Excise Act), Sitamarhi**, in connection with **Suppi P.S. Case No. 211 of 2020**, subject to verification of the fact of death of the petitioner's father, as also the fact that petitioner is the only son, done by the local police station; and the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the



petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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