

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.8739 of 2021**

Arising Out of PS. Case No.-132 Year-2020 Thana- KHANPURA District- Samastipur

MITHLESH CHOUDHARY S/o Lochan Sahni R/o village- Kanu Bishanpur,
P.S.- Khanpur, District- Samastipur Petitioner

Versus

The State of Bihar Opposite Party

Appearance :

For the Petitioner/s : Mr.Vinay Kumar Mishra, Advocate

For the Opposite Party/s : Ms. Anita Kumari, APP

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

2 30-04-2021 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 Ms. Anita Kumari, learned APP for the State.

The petitioner in the present case is seeking regular bail in connection with G.R. Case No. 520 of 2020 arising out of Khanpur P.S. Case No. 132 of 2020 (Computer Registration No. 750 of 2020) registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act, 2016.

Learned counsel for the petitioner submits that as per the prosecution story, on secret informant of liquor trade when the informant Dil Kumar Bharti, who is an S.H.O. of Khanpur P.S., with other police personnel reached at the place of occurrence. One Mithilesh Chaudhary along with other associates who are involved in the aforesaid trade on seeing the police party tried to flee but on



chase one of them was apprehended and in presence of two independent witnesses total 46 liters of illicit liquor was recovered.

Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the present case. It is submitted that nothing has been recovered from possession of the petitioner and recovery was made in Kanu Bishanpur Chowk (open field) which does not belong to the petitioner. The petitioner is in custody in connection with the present case since 17.08.2020 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 nothing has been recovered from his possession and recovery was made in Kanu Bishanpur Chowk (open field) which does not belong to the petitioner, the petitioner has remained in jail since 17.08.2020, investigation against him is complete and prior to the present case he had no criminal antecedent, this Court directs release of the petitioner above named 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 II Additional Sessions Judge-cum-Special Judge, Excise, Samastipur, in connection with G.R. No. 520 of 2020 arising out of Khanpur P.S. Case No. 132 of 2020 (Computer Registration No. 750 of 2020), subject to the



conditions 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 is suspected, and

(c) that such persons shall not directly or indirectly make and 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.

The application stands 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'.

