

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.57186 of 2021**

Arising Out of PS. Case No.-147 Year-2021 Thana- PAHARPUR District- East Champaran

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HARI SHANKAR PRASAD SON OF JAGARNATH PRASAD R/O  
VILLAGE- BHAJA CHAPRA, P.S.- PAHARPUR, DIST.- EAST  
CHAMPARAN

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.Shailendra Kumar Singh

For the Opposite Party/s : Mr.Parmanand Kumar

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**CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR**  
**ORAL ORDER**

3      17-12-2021                      Heard learned counsel for the petitioner and Mr. Jharkhandi Upadhyay and Mr. Parmanand Kumar, learned APPs for the State.

On 04.10.2021, the Court had passed the following order.

*“The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the petitioner, which was allowed.*

*Heard Mr. Purushottam Kumar Jha, learned counsel for the petitioner and Mr. Parmanand Kumar, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.*

*The petitioner apprehends arrest in connection with Paharpur P.S. Case No. 147 of 2021 dated 04.07.2021, instituted under Sections 30/30(a)/33/41(1) of the Bihar Prohibition and Excise Act, 2016.*

*As per the written complaint, there has*



*been recovery of huge amount of liquor and spirit from the godown of the tent house belonging to the petitioner adjacent to his rice mile.*

*Learned counsel for the petitioner submitted that the said godown from which recovery has been shown was given on rent to Biltu Mahto @ Biltu Mandal under notarised lease agreement for 11 months starting 25.01.2021 and recovery has been made on 04.07.2021, i.e., much after the premises was leased out. Learned counsel submitted that it has come that a truck bearing registration of the State of Rajasthan was also seized and Biltu Mandal is said to be the driver of the said truck. Learned counsel submitted that the petitioner has legal business of rice mill and the said godown was being run by Biltu Mahto and the petitioner has neither any concern nor any knowledge of what was going on.*

*Learned APP submitted that the said lease agreement itself is a piece of evidence created, as the driver of a truck cannot be expected to take the godown on lease paying Rs. 10,000/- per month and simultaneously work as driver of the truck, that too, which is registered in the State of Rajasthan. Further, it was submitted that the petitioner has two other criminal cases of the year 2015 and 2018 under various sections including Sections 406/220 of the Indian Penal Code. However, it was submitted that the Court may call for the materials which may have come during police investigation to ascertain as to whether in reality the place from where the recovery has been made was taken by Biltu Mahto on lease from the petitioner.*

*Having regard to the aforesaid, let learned APP obtain the up-to-date legible photocopy of the entire case diary of Paharpur P.S. Case No. 147 of 2021 from the Superintendent of Police, East Champaran. The Superintendent*



*of Police, East Champaran shall also send specific report with regard to the genuineness of the lease agreement between the petitioner and Biltu Mahto and whether actually Biltu Mahto was the lessee and was independently incharge of the premises from which recovery has been made. Report shall also deal with whatever application which may have been filed on behalf of the petitioner before the Superintendent of Police, East Champaran.*

*The matter be listed on 15<sup>th</sup> November, 2021, amongst the top five cases.*

*In the meantime, no coercive steps shall be taken against the petitioner in Paharpur PS Case No. 147 of 2021, pending before the learned Special Judge, Excise, East Champaran, subject to the petitioner cooperating with the police/prosecution. Further, the investigation shall continue.*

On 04.10.2021, relying on the lease deed annexed with the petition it was submitted that on behalf of the petitioner that the illegal liquor belonged to Biltu Mahto and not this petitioner. Considering the submissions of the learned counsel for the petitioner, Dy. S.P., incharge, East Champaran was directed to inquire into the matter, the report of the Superintendent of Police, East Champaran has been submitted and it was found that it is the petitioner who was the owner of the godown and Biltu Mahto was his driver.

Considering the aforesaid fact, this application for anticipatory bail is dismissed.

The petitioner by making false statement and relying



on forged document had got interim protection on 04.10.2021, the Superintendent of Police, East Champaran, Motihari is directed to arrest the petitioner immediately. Cost of Rs. 1, 00,000/- (One lakh) is imposed upon the petitioner which shall be recovered from him before he may granted regular bail in the present case.

This order will be communicated to the Superintendent of Police, East Champaran, Motihari through FAX. Mr. Jharkhandi Upadhyay, learned APP is requested to communicate this order to the Superintendent of Police, East Champaran, Motihari on phone and whatsapp.

**(Sandeep Kumar, J)**

Ranjeet/-

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