

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26392 of 2022

Arising Out of PS. Case No.-114 Year-2022 Thana- MUZAFFARPUR SADAR District-
Muzaffarpur

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Bittu Kumar Yadav @ Bittu Kumar, S/o Mani Bhushan Ray, Resident of
Village- Bajitpur, P.S.- Kudhani (Turki O.P.), District- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pranav Kumar Jha, Advocate
For the Opposite Party/s : Mr. Dashrath Mehta, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 16-08-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in connection with Muzaffarpur Sadar P.S. Case No. 114 of 2022 registered for the alleged offences under Sections 272, 273, 414 and 34 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act, 2016 and 21(b) of N.D.P.S. Act.

Allegedly, from the petitioner, two *puria* (sachet) of smack weighing two grams has been recovered and from a carton kept on motorcycle, about nine litres of India made



foreign liquor was recovered. This liquor was recovered when the motorcycle was intercepted on secret information that three persons were using a stolen motorcycle for the purposes of sale and purchase of illicit liquor and it was kept in between the petitioner and co-accused Vicky Kumar.

The learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. There is clear violation of Section 100 of Cr.P.C while making search and seizure. Similarly there is no compliance of Section 50 of N.D.P.S. Act. Moreover, recovery of illicit liquor has been from the joint possession and the smack is less than small quantity. Co-accused Vicky Kumar has been granted bail by a Co-ordinate Bench of this Court vide order dated 06.05.2022 passed in Cr. Misc. No. 22434 of 2022. The petitioner is in custody since 06.03.2022 and charge-sheet has been submitted. The petitioner is having clean antecedent.

Learned APP opposes the prayer for bail.

Having regard to the submissions made on behalf of the parties and considering the quantity of recovered contraband smack which is stated to be less than small quantity as notified and further considering the submission of charge-sheet and the period of custody of the petitioner, the petitioner above named is



directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Excise Court No.1, Muzaffarpur in connection with Muzaffarpur P.S. Case No. 114 of 2022, subject to the condition mentioned in Section 437(3) of the Cr.P.C. and the other following conditions:

- (i) One of the bailors will be Anita Devi, mother of the petitioner, who has sworn the affidavit.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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