

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10063 of 2022**

Arising Out of PS. Case No.-438 Year-2021 Thana- SITAMARHI District- Sitamarhi

DIWAKAR KUMAR @ DIWAKAR SINGH Son of Ghutar Singh @ Ram
Ekwal Singh Resident of Village - Bariyarpur, P.s.- Sitamarhi, Distt.-
Sitamarhi.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pramod Kumar Sinha, Advocate
For the Opposite Party/s : Ms. Sangeeta Sharma, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER**

2 24-06-2022 Heard learned counsel appearing on behalf of the
petitioner and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioner seeks bail in connection with Sitamarhi
P.S. Case No. 438 of 2021 registered for the offence under
Sections 30(a) and 36 of the Bihar Prohibition and Excise
Amendment Act, 2018.

The accused/petitioner is named in the F.I.R. and is in
custody since 10.01.2022.

The allegation against the petitioner is to be engaged
in illegal business of illicit foreign liquor, wherein, a recovery of
1777.50 litres of illicit liquor was made from the house of the



co-accused, namely, Nagendra Singh.

Learned counsel appearing on behalf of the petitioner submitted that the name of the petitioner surfaced on the basis of confessional statement of co-accused, namely, Nagendra Singh. It is admitted position that recovery is not made from the house or from the conscious possession of the petitioner. It is pointed out that petitioner is involved in one similar case, in which, petitioner is on bail. While concluding the argument, it has further been submitted that charge-sheet has already been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, while opposing the prayer of bail, fairly conceded the fact that alleged recovery is not made from the house of the petitioner.

Considering the facts and circumstances as mentioned above, as recovery is not made from the conscious physical possession of the petitioner coupled with the fact that charge-sheet has already been submitted in this case, let the petitioner, above named, is directed to be released on bail in connection with Sitamarhi P.S. Case No. 438 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional



District & Sessions Judge II-cum-Special Judge (Excise),
Sitamarhi, subject to the following conditions:

“(i) That accused/petitioner shall not involve in the similar nature of offence till the conclusion of trial, failing the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioner.

(ii) Accused/Petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner duly supported by the documents.

(iii) That one of the bailors shall be Sunil Kumar, who is the brother of the petitioner and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

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