

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10208 of 2022

Arising Out of PS. Case No.-211 Year-2021 Thana- MADHUBAN District- East Champaran

Kamal Kumar Yadav S/o- Jayram Rai Resident of Village- Bhawarua, P.S.-
Madhuban, District- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shashi Shekhar Tiwary, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar Sharma, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 22-07-2022 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
Madhuban P.S. Case No. 211 of 2021 registered for the offence
under Sections 272, 273, 120(B), 420, 467, 468 and 471 of the
Indian Penal Code and Sections 30(a), 36, 41(i) of Bihar
Prohibition and Excise Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 12.07.2021.

The allegation against the petitioner is to have in
possession of 8812.260 liters of foreign wine, which was
recovered from a truck bearing Registration no. HR 67 9685.

Learned counsel appearing on behalf of the petitioner



submitted that the allegation against the petitioner is only limited to the extent that he was sitting in the vehicle, from where the alleged recovery of illicit liquor was made and nothing surfaced during the course of investigation, which may suggest that petitioner is aware of the illegal consignment of illicit liquor loaded in the vehicle, as such, it cannot be said that recovery of illicit liquor is from the conscious physical possession of the petitioner. While concluding the argument, it is submitted that petitioner is a man of clean antecedent and, moreover, investigation in this case is complete for which chargesheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP appearing on behalf of the State, while opposing the prayer of bail, fairly conceded that this is not a case of recovery of illicit liquor from the physical possession of the petitioner.

Considering the facts and circumstances as mentioned above, as recovery cannot be said from the conscious physical possession of the petitioner, who is a man of clean antecedent coupled with the fact that chargesheet has already been submitted, let the petitioner, above named, is directed to be released on bail in connection with Madhuban P.S. Case No.



211 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 8th Sessions Judge-cum-2nd Special Judge of Excise Act, Motihari/concerned Court, subject to the following conditions:

“(i) 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.

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

(Chandra Shekhar Jha, J)

Ankit/-
Shweta/-

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