

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10973 of 2022**

Arising Out of PS. Case No.-802 Year-2019 Thana- SARAIYA District- Muzaffarpur

MITHLESH KUMAR @ MITHILESH KUMAR S/o- Vinod Ray R/o
Village- Kutrum Kolhua, P.S.- Saraiya, District- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anish Kumar, Advocate

For the Opposite Party/s : Mr. Aditya Narayan Singh.1, 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 Saraiya
P.S. Case No. 802 of 2019 registered for the offence under
Sections 272, 273 and 34 of the IPC and Section 30(a) of the
Bihar Prohibition and Excise Act, 2018.

The accused/petitioner is named in the F.I.R. and is in
custody since 16.06.2021.

The allegation against the petitioner is to be engaged
in illegal business of illicit liquor, wherein, recovery of 590
litres of illicit liquor was made.

Learned counsel appearing on behalf of the petitioner



submitted that it is apparent from the seizure list that the recovery was made from open place, behind the house of the petitioner. It has been pointed out that the petitioner is also involved in one other case, in which, he is on bail. It has further been submitted that the mandatory provision under Section 100 Cr.P.C. has not been complied with, while preparing seizure list. Moreover, charge-sheet has already been submitted in this case, as such, there is no chance of tampering with the evidence.

Learned APP, while opposing the prayer of bail, fairly conceded the fact that recovery has been made from open place.

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 Saraiya P.S. Case No. 802 of 2019 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge (Excise) Court No.II, Muzaffarpur, 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 Abhishek Kumar, who is the younger brother of the petitioner and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

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