

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11019 of 2022**

Arising Out of PS. Case No.-252 Year-2021 Thana- CHAUTHAM District- Khagaria

KISHORI SHARMA Son of Bamdeo Sharma @ Vamdev Sharma Resident of
Village- Malpa, P.S.- Chautham, District- Khagaria.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bishweshwar Ram, Advocate

For the Opposite Party/s : Mr. Rana Randhir Singh, 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
Chautham P.S. Case No. 252 of 2021 registered for the offence
under 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 19.11.2021.

The allegation against the petitioner is to be engaged
in illegal business of illicit liquor and found to be in possession
of 5 litres of illicit country made Mahua liquor.

Learned counsel appearing on behalf of the petitioner



submitted that recovery has been made from the roof of the house of the petitioner and as such it cannot be said that the petitioner recovery has been made from physical possession of the petitioner. It has further been submitted that mandatory provision of Section 100 Cr.P.C. has not complied with, while preparing seizure list. While concluding the argument, it has further submitted that charge-sheet has already been submitted in this case, as such, there is no chance of tampering with the evidence and also petitioner is involved in two similar nature of cases, in which, he is on bail.

Learned APP, while opposing the prayer of bail, fairly conceded the fact that alleged recover has been made from the roof of the house of the petitioner.

Considering the facts and circumstances as mentioned above, as alleged 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 Chautham P.S. Case No. 252 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 & Session Judge II-cum-Special



Judge Excise, Khagaria, subject to the following conditions:

“(i) That petitioner shall not involve in the similar nature of offence till the conclusion of trial, failing which, 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.

(ii) That one of the bailors shall be Jagdish Sharma, who is the elder brother of the petitioner and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

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