

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11947 of 2022**

Arising Out of PS. Case No.-233 Year-2021 Thana- PARIHAR District- Sitamarhi

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RAMISHWAR MAHTO @ RAM ISHWAR MAHTO Son of Yugeshwar
Mahto Resident of Village- Parihar, P.S.- Parihar, District- Sitamarhi- 843324.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

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

For the Opposite Party/s : Mr. Ashok Kumar Singh, APP

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**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 Parihar
P.S. Case No. 233 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 27.12.2021.

The allegation against the petitioner is to have in
possession of total 90 litres of illicit Nepali Saufi liquor.

Learned counsel appearing on behalf of the petitioner
submitted that the recovery has not been made from the
conscious possession of the petitioner, as the alleged motorcycle



was occupied by other co-accused persons also. It has further been submitted that mandatory provision of Section 100 of Cr.P.C. has not been complied with, while preparing the seizure list. It has been pointed out that the petitioner is involved in one similar case, in which, he is on bail. While concluding the argument, it has been submitted that 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 motorcycle was occupied by other co-accused person.

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 Parihar P.S. Case No. 233 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 and Sessions Judge-II, Sitamarhi 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.

(iii) That one of the bailors shall be Ramjinish Singh, who is the father-in-law of the petitioner and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

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