

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14848 of 2022

Arising Out of PS. Case No.-191 Year-2021 Thana- NAWADA MUFFASIL District- Nawada

Rohan @ Shatrudhan Choudhan @ Rohan Chouhan Son of late Mahendra Chouhan Resident of Village - Barhi Bigha, P.s.- Muffassil and Distt.- Nawada.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manish Kumar No.2, Advocate

For the Opposite Party/s : Mr. Dilip Kumar No. 1, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 31-08-2022 Heard learned counsel appearing on behalf of the petitioner and learned APP 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 Muffasil P.S. Case No. 191 of 2021 registered for the offence under Sections 30(a)(d) and 41 of the Bihar Prohibition and Excise Act, 2016.

The accused/petitioner is named in the F.I.R. and is in custody since 08.07.2021.

The allegation against the petitioner is to have in possession of 3.5 liters of country made liquor, consumption of which caused death of one person, namely, Ganesh Chauhan.



Learned counsel appearing on behalf of the petitioner submitted that it is not a case of Section 34(b)(1) of the Bihar Prohibition and Excise Act, 2016, as for the same, Muffasil P.S. Case No. 190 of 2021 has already been lodged, where petitioner is also one of the co-accused. It is submitted that the present case is limited to the recovery of illicit liquor. It is further submitted that the recovery of alleged illicit liquor was made from the house of the petitioner, which is occupied by other family members, as such, it cannot be said to be recovered from the conscious physical possession of the petitioner. While concluding the argument, it is submitted that 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, as per the report of Superintendent of Police, Nawada dated 29.08.2022, in terms of the order dated 24.08.2022, Muffasil P.S. Case No. 190 of 2021 has already been lodged against this petitioner, where one person, namely, Ganesh Chauhan died after consumption of illicit liquor and the present case is limited only to the recovery of illicit liquor.

In view of the facts and circumstances, as mentioned



above, as present case is limited only to the recovery of illicit liquor, which was not made from the conscious physical possession of the petitioner 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 Muffasil P.S. Case No. 191 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 Sessions Judge-II-cum-Special Judge, Nawada/concerned Court, subject to the conditions as laid down u/s 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

Ankit/-

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