

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16005 of 2022

Arising Out of PS. Case No.-37 Year-2022 Thana- SAHPUR District- Patna

Sanjay Kumar Son of Murari Lal Resident of Village- Diyai, P.S.- Nimchak Bathani, P.O. Khukhari, District- Gaya at present resident of village- Rukunpura in house of Subhash Singh, P.S.- Rupaspur, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Md. Iftexhar Mahmood, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 15-07-2022 Heard learned counsel appearing on behalf of the petitioner and learned counsel appearing on behalf of the State through virtual Court proceedings.

Let the defect(s), if any, be removed within a period of four weeks from today.

The petitioner seeks bail in connection with Shahpur P.S. Case No. 37 of 2022 registered for the offence under Sections 30(a), 41 and 56 of the Bihar Prohibition and Excise Act, 2018.

The accused/petitioner is named in the F.I.R. and is in custody since 28.01.2022.

The allegation against the petitioner is to be engaged in illegal trade of illicit liquor, where, there is recovery of 150



litres of country made liquor.

Learned counsel appearing on behalf of the petitioner submitted that petitioner is driver of the alleged tempo, from where, recovery of illicit liquor has been made, as such, it cannot be said that the alleged recovery has been made from the conscious physical possession of the petitioner. It has further been submitted that nothing surfaced during course of the investigation, which may suggest that the petitioner was under knowledge of consignment of illicit liquor. It has further been submitted that there is no compliance of mandatory provision of Section 100 of Cr.P.C., as the same was not supported by independent witness. It has further been submitted that petitioner is a man of clean antecedent. While concluding the argument, it has been submitted that investigation has been completed, for which, 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 alleged auto, from where, recovery has been made, was jointly occupied by other co-accused persons.

Considering the facts and circumstances as mentioned above, as the alleged recovery has not been made from the



conscious physical possession of the petitioner, who is a man of clean antecedent coupled with the fact that charge-sheet has already been submitted, let the petitioner, above named, is directed to be released on bail in connection with Shahpur P.S. Case No. 37 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Excise Judge, Danapur (Patna), 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 Nishu Kumar, who is the Brother of the petitioner and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

S.Katyayan/
R.S.Sen/-

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