

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17072 of 2022

Arising Out of PS. Case No.-316 Year-2017 Thana- GOVERNMENT OFFICIAL COMP.
District- Samastipur

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UPENDRA MAHTO Son of Ramnand Mahto Resident of village - Gangapur
Ward No.- 8, P.S. - Musarigharari, District - Samastipur.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Anuj Kumar

For the Opposite Party/s : Mr.Anand Kishore Choudhary

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 15-07-2022 Let the defect(s), as pointed out by the office, be

removed within a period of four weeks from today.

Heard learned counsel for the petitioner and

learned A.P.P. for the State.

The petitioner seeks bail in connection with Excise

Case No. 316 of 2017 registered for the offences punishable

under Sections 30(a), 38 of Bihar Prohibition & Excise

(Amendment) Act, 2018.

As per prosecution report, on the basis of secret

information, informant searched the hut erected in Bathaan of

Lochan Mahto, from where a total 492.48 litres of foreign liquor

was recovered. Police arrested Lochan Mahto (co-accused).

After seeing the informant, Upendra Mahto (petitioner) and



other co-accused namely Laxman Thakur fled away.

Learned counsel for the petitioner submits that petitioner is in custody since 26.02.2022. Petitioner bears criminal antecedent of two cases of similar nature. Prosecution report has already been submitted in the case and there is no likelihood of tampering with the prosecution evidence. Learned counsel further submits that petitioner has no concern with the hut and Bathaan at all. Nothing has been recovered from the physical possession of the petitioner. Petitioner is not apprehended on spot. The informant implicated the petitioner merely on the basis of his earlier antecedents.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

Considering the facts and circumstances of the case as well as period of custody, prosecution report has already been submitted and there is no likelihood of tampering with the prosecution evidence, petitioner is not apprehended on spot and also taking into consideration the material available on record, let the petitioner above named be released on bail after framing of charge 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 Judge (Excise)-2, Samastipur in



connection with Excise Case No. 316 of 2017, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

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