

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17593 of 2022

Arising Out of PS. Case No.-8 Year-2022 Thana- MAKER District- Saran

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ROHIT KUMAR S/o Banaras Rai Resident of Village - Nauranga, P.S. -
Amnour, District - Saran.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

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

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

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 21-07-2022 Heard learned counsel for the petitioner and learned
counsel for the State.

Let the defect(s), if any, as pointed out by the office
be removed within four weeks.

The petitioner is in judicial custody in connection
with Maker P.S. Case No. 08/2022 for the offences under
Sections 272, 273, 328, 308, 304 and 120(B)/34 of the Indian
Penal Code.

The allegation in the FIR is that police got
information through a viral video that one Md. Isha Tailer has
died after consuming spurious liquor. Upon reaching his house,
the villagers informed about the alleged spurious liquor being
manufactured by Munna Mahto and Birendra Mahto.
Accordingly, the police raided their house and recovered 1.600



liters of spurious liquor from their house. Birendra Mahto was nabbed and thereafter their shop was also raided from where 380 liters of spurious liquor was recovered/seized from northern room while 9.420 liters of English wine and 220 liters of mix wine and 10 liters of country made wine along with cough syrup and empty bottles, packing machine and other materials were recovered/seized by the police.

It has further been alleged in the FIR that after drinking the said spurious liquor from the shop of Munna Mahto and Birendra Mahto, number of people died. The names of people who died were Ramnath Mahto, Md. Isha Tailer and Samar Mahto while Paltan Mahto and Suraj Baitha were under treatment.

After lodging of the FIR, the accused persons were arrested.

So far as this petitioner is concerned, it has come in the confessional statement of accused, Birendra Mahto that he used to purchase spirit from the petitioner and his father which he along with his brother and others were using to manufacture the wine which resulted into the consummation and death of the some of the co-villagers.

Learned counsel for the petitioner submits that there



has been no recovery/seizure of the illicit liquor from either his possession or his house and only because of the confessional statement of the accused, Birendra Mahato, he is in custody since 21.01.2022 (as stated in paragraph-17 of the bail application). He further submits that the petitioner do not have criminal antecedent.

Taking into account the aforesaid facts that allegation of manufacturing as also selling of the spurious liquor is/are attributed mainly to Munna Mahto and Birendra Mahto from whose shop/house the alleged materials have been recovered/seized and the petitioner herein remained in custody since 21.01.2022 as also the charge sheet stands submitted, this Court is inclined to grant him the privilege of bail.

Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of like amount each to the satisfaction of learned 2nd Exclusive Special Excise Court, Saran at Chapra in connection with Maker P.S. Case No. 08 of 2022, subject to the following conditions:-

- (i) one of the bailor should be the family member of the petitioner, who shall provide official document to show his/her *bona fide*;
- (ii) the petitioner shall appear on each and every date



before the Trial Court and failure to do so for two consecutive dates without plausible reasons will entail his cancellation of bail by the Trial Court itself;

(iii) he shall appear before the concerned police station every fortnight for next six months to mark his presence;

(iv) he shall in no way try to induce or promise or threat the witnesses or tamper with the evidence, failing which the State shall be at liberty to take steps for cancellation of his bail bonds;

(v) the petitioner shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

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