

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18948 of 2022**

Arising Out of PS. Case No.-435 Year-2021 Thana- SIWAN MUFFASIL District- Siwan

Jitendra Manjhi Son Of Mahanth Manjhi R/O Village- Ramnagar, P.S.-
Muffasil, District- Siwan, Bihar-841226

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Kumar Kaushik
For the Opposite Party/s : Mr.Nirmal Kumar Sinha

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 22-07-2022 Heard learned counsel for the petitioner and learned
APP for the State through virtual court proceeding.

Let the defect(s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in connection with Siwan Muffasil P.S. Case No. 435 of 2021 registered for the alleged offences under Section 30(a), 38(1) and 41(i) of the Bihar Prohibition and Excise Act, 2016.

As per prosecution case, police received secret information about co-accused Mintu Yadav supplying this petitioner illicit liquor for sale. Police reached at the place where a vehicle was parked and allegedly the petitioner and driver of the vehicle fled away from there. From the vehicle,



270 liters of country made liquor was recovered and seized.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case. The petitioner was neither apprehended from the spot nor any incriminating article was recovered from the person or possession of the petitioner. The petitioner has got no concern with the seized vehicle or the contraband. He is neither the owner nor the driver of the said vehicle. It is not believable that police identified the petitioner on the basis of lights of the vehicles. Moreover, it is also not believable that police got any information about petitioner standing a certain place and running away from there. Learned counsel further submits that the petitioner was arrested from his house and it is obvious that he did not make any attempt to run away from his home for the fear of arrest. Learned counsel further submits that as the petitioner was not found in possession of liquor and there is no evidence that he was carrying the liquor or the liquor was being carried by him, there would not be application of Section 30(a) of the Excise Act against the petitioner. Learned counsel further submits that petitioner is accused in three cases in which he is on bail and earlier he was acquitted in six other cases. Charge sheet has been submitted in this case and petitioner is in custody since



24.12.2021.

Learned APP for the State opposes the prayer for bail of the petitioner.

Having regard to the submission made on behalf of the parties and considering the fact that no substantive evidence has been shown to be existing against this petitioner and he has been named by the police on the basis of information received from other persons, further no recovery has been shown from him and further considering the fact that the charge sheet has been submitted and the period of custody of the petitioner, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional District Judge II-Cum—Special Judge(Excise), Siwan in connection with Siwan Muffasil P.S. Case No. 435 of 2021, subject to the other conditions as laid down under Section 437(3) of the Cr.P.C.

(i) The bail bond of the petitioner will be accepted only after framing of charge, if not already framed.

(ii) One of the bailors will be a close relative of the petitioner.



- (iii) The petitioner will remain present on each and every date fixed by the court below.
- (iv) The petitioner will not indulge in similar type of offences in future.
- (v) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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