

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19490 of 2022

Arising Out of PS. Case No.-106 Year-2021 Thana- DIGHWARA District- Saran

Shivratan Mahto @ Sheo Ratan Mahto Son of Late Dular Chandra Mahto
Resident of Village - Manupur (Saidpur), P.S.- Dighwara, Distt.- Saran at
Chhapra.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Jitendra Narain Sinha, Advocate

For the Opposite Party/s : Mr. Upendra Kumar, 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 Dighwara
P.S. Case No. 106 of 2021 registered for the offence under
Sections 272 and 273 of the Indian Penal Code and Sections
30(a), 38 and 41(i) of the Bihar Prohibition and Excise Act,
2018.

The accused/petitioner is named in the F.I.R. and is in
custody since 31.01.2022.

The allegation against the petitioner is to be engaged



in illegal trade of illicit liquor, where, there is recovery of 100 litres of country made liquor.

Learned counsel appearing on behalf of the petitioner submitted that the alleged recovery has been made from *Ganga diyara* and the same cannot be said that recovery has been made from conscious physical possession of the petitioner. It has further been submitted that petitioner is involved in one case of similar nature, in which, he is on bail. 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 recovery has been made from open place i.e. *Ganga diyara*.

Considering the facts and circumstances as mentioned above, as the alleged recovery has not been made from the conscious physical possession of the petitioner 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 Dighwara P.S. Case No. 106 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 1st, Exclusive Special Judge, Excise, Saran at Chhapra, subject to the following conditions:

“(i) That petitioner shall not involve in the similar nature of offence till the conclusion of trial, failing which, the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioner.

(ii) 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.

(iii) That one of the bailors shall be Mukesh Kumar Mahto, 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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