

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19474 of 2022**

Arising Out of PS. Case No.-15 Year-2022 Thana- MUZAFFARPUR TOWN District-
Muzaffarpur

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Prem Chaudhary S/o Late Phudeni Chaudhary R/o South of Lakadidhai
Canal, P.S.- Muzaffarpur Town (Sikandarpur OP), District- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

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

For the Opposite Party/s : Mr. Damodar Prasad Tiwary, APP

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**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
Muzaffarpur Town (Sikandarpur O.P.) P.S. Case No. 15 of 2022
registered for the offence under Sections 272, 273 and 34 of the
Indian Penal Code and Sections 30(a), 30(c) and 34 of the Bihar
Prohibition and Excise Act, 2018.

The accused/petitioner is named in the F.I.R. and is in
custody since 05.01.2022.

The allegation against the petitioner is to be engaged



in illegal trade of illicit liquor, where, there is recovery of 40 litres of country made liquor.

Learned counsel appearing on behalf of the petitioner submitted that the recovery has been made from the house of the petitioner, which was jointly occupied by the other family members and co-partners and 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 there is no compliance of mandatory provision of Section 100 of Cr.P.C., as seizure list is not supported by the independent witnesses. 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 not been made from conscious physical possession of the petitioner.

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 Muzaffarpur Town (Sikandarpur O.P.) P.S. Case No. 15 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 Exclusive Special Excise Court No.1, Muzaffarpur, 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 Arpan Devi, who is the wife of the petitioner and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

S.Katyayan/
R.S.Sen/-

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