

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20969 of 2022

Arising Out of PS. Case No.-242 Year-2020 Thana- MALSALAMI District- Patna

Ashok Ray S/o Late Khuddi Rai R/o Bhasani Tola, P.S.- Malsalami, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

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

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 22-07-2022 Heard learned counsel appearing on behalf of the petitioner and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period of four weeks from today.

The petitioner seeks bail in connection with Malsalami P.S. Case No. 242 of 2020 registered for the offence under Sections 30(a) of Bihar Prohibition and Excise Act, 2018.

The accused/petitioner is named in the F.I.R. and is in custody since 23.03.2022.

The allegation against the petitioner is to involve in the illegal business of illicit liquor, where 160 liters of country made Mahua liquor was recovered.

Learned counsel appearing on behalf of the petitioner submitted that recovery is from the open place, as such, it cannot be said to be recovered from the conscious physical



possession of the petitioner. It is submitted that nothing surfaced during the course of investigation, which may connect the petitioner with the present recovery of illicit liquor. It is pointed out that petitioner is involved in five other criminal cases out of which he is on bail in four cases. While concluding the argument, it is submitted that investigation in this case is complete for which chargesheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP appearing on behalf of the State, while opposing the prayer of bail, fairly conceded that recovery is from the open place.

Considering the facts and circumstances as mentioned above, as recovery is from the open place, as such, it cannot be said to be recovered from the conscious physical possession of the petitioner coupled with the fact that chargesheet has already been submitted, let the petitioner, above named, is directed to be released on bail in connection with Malsalami P.S. Case No. 242 of 2020 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, Patna City, Patna/concerned Court, subject to the following conditions:

“(i) That accused/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) That 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 Kundan Kumar, who is the son of the petitioner and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

Ankit/-
Shweta/-

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