

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21809 of 2022**

Arising Out of PS. Case No.-73 Year-2019 Thana- MAKER District- Saran

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Mani Bhushan Rai S/o Nageshwar Rai @ Bhutai Rai R/o village- Madhubani,
P.S.- Amnour, District- Saran at Chapra

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vishesh Kumar Singh, Advocate
For the Opposite Party/s : Mr. Yogendra Kumar, APP

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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 Maker
P.S. Case No. 73 of 2019 registered for the offence under
Sections 188, 272 and 273 of the Indian Penal Code and Section
30(a) of Bihar Prohibition and Excise Act.



The accused/petitioner is named in the F.I.R. and is in custody since 11.03.2022.

The allegation against the petitioner is to involve in the illegal business of illicit liquor, where 400 liters of spirit was recovered from the '*Bathan*' of the petitioner.

Learned counsel appearing on behalf of the petitioner submitted that recovery is made from the '*Bathan*' of the petitioner, which was accessible by general public, as such, it cannot be said to be recovered from the conscious physical possession of the petitioner and nothing surfaced during the course of investigation, which may connect the petitioner with the alleged recovery of illicit liquor. 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 this is not a case of recovery of spirit from the conscious physical possession of the petitioner.

Considering the facts and circumstances as mentioned above, as recovery is made from the '*Bathan*' of the petitioner, which was accessible by general public, 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 Maker P.S. Case No. 73 of 2019 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned 2nd Exclusive Special Excise Court, Saran at Chapra/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) 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
Nageshwar Rai, who is the father of the
petitioner and deponent of the present bail
petition.”

(Chandra Shekhar Jha, J)

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