

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22022 of 2022**

Arising Out of PS. Case No.-238 Year-2020 Thana- CHERIYA BARIYARPUR District-
Begusarai

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Lal Babu Mahto S/O Badri Nath Mahto R/o village- Akopur, P.S.- Cheria
Bariyar Pur, Distt.- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shubhesh Pandey, Advocate.
For the Opposite Party/s : Mr. Kalyan Shankar, APP.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 15-07-2022 Learned counsel for the petitioner is permitted to
remove defect(s), as pointed out by the office, if any, within a
period of four weeks from today.

Heard Mr. Shubhesh Pandey, learned counsel for the
petitioner as well as learned Additional Public Prosecutor for the
State.

The application for grant of bail to the petitioner,
above named, who has been made accused and put behind the
bar in connection with Cheriabariyarpur P. S. Case No. 238 of
2020 registered for the offences punishable under Section 30(a)
of the Bihar Prohibition and Excise Act, 2016.

As per the prosecution case, it is alleged that the
Police, on a secret information, raided village Akopur and on



search being made total 88 litres and 470 ml illicit foreign liquor has been recovered from a sugar-cane field. The name of the petitioner is said to have been disclosed by a spy of the Police.

Learned counsel appearing on behalf of the petitioner submitted that the petitioner was neither arrested at the spot nor any incriminating material has been recovered from his conscious or constructive possession. It is further submitted that the sugar-cane field from where the alleged recovery has been made does not belong to the petitioner and moreover, the alleged sugar-cane field is accessible to all. It is next submitted that during the course of investigation, nothing has come which suggests the complicity of the petitioner in the present crime. It is lastly submitted that one of the co-accused persons, namely, Manish Kumar has already been granted anticipatory bail in Cr. Misc. No. 13726 of 2021 vide order dated 03.01.2022 and this petitioner is in custody since 28.02.2022.

On the other hand, learned APP for the State opposes the bail application and submits that the name of the petitioner has been disclosed by the spy of the Police.

Having considered the submissions made on behalf of the parties and taking into account the nature of allegation and further the petitioner was neither arrested at the spot nor any



incriminating material has been recovered and he is in custody since 28.02.2022 and moreover, the investigation of the crime is already completed and the charge-sheet has been submitted and there is no likelihood of commencement of the trial in near future, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions II-cum-Special Judge, Bihar Prohibition and Excise Act, Begusarai in connection with Cheriabariyarpur P. S. Case No. 238 of 2020, subject to the condition that one of the bailors will be the close relative of the petitioner with further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the trial.
- (ii) He will remain present on each and every date of trial till disposal of the case.
- (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.



(v) The Court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancelling of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Harish Kumar, J)

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