

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21805 of 2022**

Arising Out of PS. Case No.-35 Year-2022 Thana- ADAPUR District- East Champaran

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Rajeshwar Dubey @ Rajeshwar Duve Son of Amarnath Dubey R/O Village-
Latiyahi, P.S.- Adapur, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

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

For the Opposite Party/s : Mr. Madan 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 Adapur
P.S. Case No. 35 of 2022 registered for the offence under
Sections 413 and 414 of the Indian Penal Code and Sections
30(a), 32 and 41(i) of the Bihar Prohibition and Excise Act.

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



custody since 01.02.2021.

The allegation against the petitioner is to have in possession of 8.4 liters of Nepali liquor, which was recovered from dickey of motorcycle bearing Registration no. BR 05E 1191.

Learned counsel appearing on behalf of the petitioner submitted that recovery is made from the alleged motorcycle, which was found in the abandoned condition from roadside and petitioner is only a passer-by, as such, it cannot be said 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. It is pointed out that petitioner is involved in five more criminal cases, in which he is on bail. 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 not from the physical possession of the petitioner.

Considering the facts and circumstances as mentioned above, as recovery cannot be said 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 Adapur P.S. Case No. 35 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 Special Judge, Exclusive Special Excise Court No.2, East Champaran, Motihari/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
Sunita Devi, who is the wife of the petitioner
and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

Ankit/-

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