

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.22708 of 2022**

Arising Out of PS. Case No.-409 Year-2021 Thana- PAROO District- Muzaffarpur

Mithlesh Kumar Yadav @ Mithilesh Kumar Yadav Son Of Dinanath Prasad  
Yadav R/O Village- Chhapra Aas, P.S.- Paroo, District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Rajiv Kumar

For the Opposite Party/s : Mr.Uday Pratap Singh

**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  
  
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 in Paroo P.S. Case No. 409 of 2021 registered for  
  
the offence under Section 30(a) of the Bihar Prohibition and  
  
Excise Act.

The accused/petitioner is named in the F.I.R.  
  
petitioner is in custody since 25.01.2022.

The allegation against the petitioner is to be engaged  
  
in illegal trade of illicit liquor, where, there is recovery of  
  
620.28 litres of IMFL.



Learned counsel appearing on behalf of the petitioner submitted that name of the petitioner surfaced on the basis of secret information of police spy and it is an admitted position that recovery has not been made from conscious physical possession of the petitioner. It has further been submitted that nothing surfaced during course of the investigation, which may connect the petitioner with the alleged recovery of illicit liquor. It has further been submitted that there is no compliance of mandatory provision of Section 100 of Cr.P.C., while preparing seizure list. While concluding the argument, it has been submitted that investigation of this case has been completed, for which, charge-sheet has already been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, while opposing the prayer of bail, fairly conceded the fact that seizure list is not supported by the independent witness.

Considering the facts and circumstances as mentioned above, as the alleged recovery has not been made from the conscious physical possession of the petitioner, seizure list is disputed 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 in Paroo P.S.



Case No. 409 of 2021 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 Excise Court-II, Muzaffarpur/concerned court, 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 Dinanath Ray @ Dinanath Prasad Yadav, who is the father of the petitioner and deponent of the present bail petition.”*

**(Chandra Shekhar Jha, J)**

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