

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22364 of 2022

Arising Out of PS. Case No.-863 Year-2021 Thana- DANAPUR District- Patna

SHARWAN KUMAR Son of Damodar Rai Resident of Village - Dost Nagar
Lodipur, P.s.- Maner, Distt.- Patna.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manoranjan Kumar, Advocate
For the Opposite Party/s : Mr. 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 Danapur
P.S. Case No. 863 of 2021 registered for the offence under
Sections 30 (a) of the Bihar Prohibition of Excise (Amendment)
Act, 2018.

The accused/petitioner is named in the F.I.R. and is in
custody since 30.11.2021.

The allegation against the petitioner is to be engaged
in illegal trade of illicit liquor, where, there is recovery of 100
litres of illicit country made liquor.

Learned counsel appearing on behalf of the petitioner



submitted that recovery has been made from back of the motorcycle of the petitioner in concealed *jut* bag and as such, it cannot be said that the alleged recovery has been made from the conscious physical possession of the petitioner. It has further been submitted that petitioner is involved in one other case, in which, he is on bail. 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 appearing on behalf of the State, while opposing the prayer of bail, fairly conceded that recovery has not been made from physical possession of the petitioner.

Considering the facts and circumstances as mentioned above, as seizure list is not supported by the independent witness, recovery has not been made from 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 Danapur P.S. Case No. 863 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 Court of Special Judge, Excise, Danapur, Patna/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 Puja Devi, who is the wife of the petitioner and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

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