

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23272 of 2022

Arising Out of PS. Case No.-175 Year-2019 Thana- PANCHRUKHI District- Siwan

SURENDRA PRASAD KUSHWAHA @ SURENDRA PRASAD SON OF
NAGINA PRASAD @ NAGINA KUSHWAHA R/O VILLAGE-
ATARSUWA, P.S.- SIWAN MUFASSIL, DISTRICT- SIWAN

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Gajendra Kumar Singh

For the Opposite Party/s : Mr. Anant Kumar 1

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 Pachrukhi
(Sarai) P.S. Case No.175 of 2019 registered for the offence
under Sections 272, 273, 308 and 34 of the Indian Penal Code
and Section 30(a) of the Bihar Prohibition and Excise Act, 2018.

The accused/petitioner is named in the F.I.R. and is in
custody since 08.02.2022.

The allegation against the petitioner is to be engaged
in illegal trade of illicit liquor, where, there is recovery of 475.2



litres of IMFL.

Learned counsel appearing on behalf of the petitioner submitted that recovery has been made from open area of house, i.e. *Dalan* of the petitioner, which was accessible by the general public, 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 two other cases, out of which, he is on bail in one case. 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 recovery was made from *Dalan* of the petitioner.

Considering the facts and circumstances as mentioned above, as the alleged recovery has not been made from the conscious physical possession of the petitioner 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 Pachrukhi (Sarai) P.S. Case No. 175 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 Exclusive Special Judge Excise No. 1, Siwan/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 Nagina Prasad @ Nagina Kushwaha, who is the father of the petitioner and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

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