

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25797 of 2022

Arising Out of PS. Case No.-339 Year-2021 Thana- MAGADH MEDICAL COLLEGE
District- Gaya

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Santu Yadav S/o Awadh Kishor Yadav @ Motiya Resident of Village- Azad
Bigha, Police Station- Magadh Medical, District- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manish Kumar No.2, Advocate
For the Opposite Party/s : Mr. Madan Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 29-07-2022 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 Magadh

Medical P.S. Case No. 339 of 2021 registered for the offence

under Section 30(a) of Bihar Prohibition and Excise

(Amendment) Act, 2018.



The accused/petitioner is named in the F.I.R. and is in custody since 22.12.2021.

The allegation against the petitioner is to involve in the illegal manufacturing and trading of illicit liquor, where 100 liters of illicit Mahua liquor was recovered from garbage.

Learned counsel appearing on behalf of the petitioner submitted that recovery is from the open place i.e., garbage, as such, it cannot be said to be recovered from the conscious physical possession of the petitioner. It is submitted that nothing surfaced during the course of investigation, which may connect the petitioner with the present recovery of illicit liquor. It is pointed out that petitioner is involved in two other 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 from the open place.

Considering the facts and circumstances as mentioned above, as recovery is from the open place, as such, it cannot be said to be recovered 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 Magadh Medical P.S. Case No. 339 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 Exclusive Special Excise Court No.1, Gaya/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) That 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
Awadh Kishor Yadav @ Motiya, who is the
father of the petitioner and deponent of the
present bail petition.”

(Chandra Shekhar Jha, J)

Ankit/-

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