

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25823 of 2022

Arising Out of PS. Case No.-811 Year-2021 Thana- MAHUA District- Vaishali

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Mintu Kumar S/O Shri Santlal Ray @ Shant Lal Ray R/o village- Fular, P.S.-
Mahua, District- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

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

For the Opposite Party/s : Mr. Sanjay Kumar Sharma, 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 Mahua

P.S. Case No. 811 of 2021 registered for the offence under

Sections 30(a), 32(ii), 34(ii), 38(ii) and 41(i) of the Bihar

Prohibition and Excise Act, 2016.

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

custody since 10.03.2022.



The allegation against the petitioner is to have in possession of 832.500 liters of illicit liquor, which was recovered from a pick-up van bearing Registration no. BR 06 GC 8503.

Learned counsel appearing on behalf of the petitioner submitted that name of the petitioner surfaced in the present case only for the reason that he is the owner of the alleged vehicle and nothing surfaced during the course of investigation, which may suggest that petitioner is aware about the illegal consignment of illicit liquor loaded in the vehicle. It is submitted that recovery of illicit liquor is not from the conscious physical possession of the petitioner. It is further submitted that seizure list is disputed, as same is not supported by independent witnesses, which is in violation of Section 100(4) of the Cr.P.C. While concluding the argument, it is submitted 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 this is not a case of recovery of illicit liquor 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 Mahua P.S. Case No. 811 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-cum-Additional District and Sessions Judge, Vaishali at Hajipur/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
Shri Santlal Ray @ Shant Lal Ray, who is
the father of the petitioner and deponent of
the present bail petition.”

(Chandra Shekhar Jha, J)

Ankit/-

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