

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26430 of 2022

Arising Out of PS. Case No.-173 Year-2022 Thana- DARIYAPUR District- Saran

GAURI MAHTO S/o Sital Mahto R/o village- Bajahiya, P.S.- Dariyapur,
District- Saran at Chhapra

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nilendu Kumar Choudhary, Advocate
For the Opposite Party/s : Mr. Umeshanand Pandit, APP

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 Dariyapur
P.S. Case No. 173 of 2022 registered for the offence under
Section 30, 30(a), 33, 41 and 30(b) of the Bihar Prohibition and
Excise Act, 2018.

The accused/petitioner is named in the F.I.R. and is in
custody since 01.04.2022.

The allegation against the petitioner is to be engaged
in illegal trade of illicit liquor, where, there is recovery of 300
litres of illicit liquor.



Learned counsel appearing on behalf of the petitioner submitted that recovery has been made from open place like “*Hardiya Chauda*”, which was accessible by general public, as such, it cannot be said that the alleged recovery has been made from the conscious physical possession of the petitioner. While concluding the argument, it has been submitted that investigation has been completed, for which, charge-sheet has already been submitted in this case, 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 has been made from open place.

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 Dariyapur P.S. Case No.173 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned 1st Exclusive Special judge, Excise, Saran/ 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 Jhulan Mahto, who is the cousin of the petitioner and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

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