

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26437 of 2022**

Arising Out of PS. Case No.-70 Year-2022 Thana- RAFIGANJ District- Aurangabad

KAPIL YADAV Son of Vimal Kumar Yadav @ Vijay Kumar Yadav @ Vijay Yadav Resident of Village - Karma Masood Chaubra, P.s.- Rafiganj, Distt.- Aurangabad (Bihar).

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bhaskar Shankar

For the Opposite Party/s : Mr.Md. Iftekhar Mahmood

**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 Rafiganj P.S. Case no. 70 of 2022 registered for the offence under 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 07.04.2022.

The allegation against the petitioner is to be engaged in illegal trade of illicit liquor, where, there is recovery of 170 litres of illicit country made liquor.



Learned counsel appearing on behalf of the petitioner submitted that recovery has been made from jointly occupied tempo, 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 three other cases, in which, he is on bail. 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 jointly occupied auto.

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 Rafiganj P.S. Case no. 70 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 Special Judge/Excise – 1st, Aurangabad/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 Vimal Kumar Yadav @ Vijay Kumar Yadav @ Vijay yadav, who is the father of the petitioner and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

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