

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28409 of 2022

Arising Out of PS. Case No.-286 Year-2020 Thana- BATHNAHA District- Sitamarhi

Chandan Kumar Son of Thukaru Rai Resident of village - Dostpur, P.S.-
Bathnaha, District - Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pushpendra Kumar Singh, Advocate

For the Opposite Party/s : Mr. Nand Kumar, A.P.P

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA

ORAL ORDER

2 06-08-2022 Heard learned counsel for the petitioner and Mr. Nand Kumar, learned A.P.P for the State.

Let the defect(s), as pointed out by the office, be removed within a period of four weeks from today.

The petitioner seeks bail in connection with a case registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act.

Allegation is of recovery of 70.560 liter foreign liquor from the heap of husk lying in front of the house of the Chandan Kumar (petitioner).

Learned counsel for the petitioner submits that the petitioner is innocent and he has no concern with the seized illicit liquor. It is submitted that mandatory provision of Sub-section 2 of Section 74 and Section 82 of the Bihar Prohibition



and Excise Act with respect to search and seizure have not been followed. It is stated that the place of recovery is an open place and he was neither arrested on the spot nor he was seen at the place of occurrence. It is further submitted that the petitioner is in custody since 30.03.2022 and has antecedent of three cases.

Learned APP for the State opposes the prayer for bail.

Considering the aforesaid facts and circumstances as well as the fact that petitioner has got criminal antecedent of similar nature of cases, I am not inclined to grant bail to the petitioner and same is, accordingly, rejected. However, the learned court below, where the case is pending, is directed to release the petitioner on bail, **after framing of the charge**, in connection with Bathnaha P.S. Case No. 286 of 2020, in addition to subject to the following conditions:-

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

(2) One of the bailors will be his own blood relation, preferably father, mother, brother, sister and or his wife.

(3) The bailor shall also state on affidavit that he will inform the court concerned if the petitioner is made accused in



any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on ground of misuse.

(4) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Khatim Reza, J)

Gaurav Kumar/-

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