

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28827 of 2022

Arising Out of PS. Case No.-12 Year-2020 Thana- MOTIPUR District- Muzaffarpur

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Ajay Rai Son Of Late Suresh Ray Resident Of Village - Chakki Rasulganj,
P.S.- Motipur, Distt.- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Vaishnavi Singh, Adv

For the Opposite Party/s : Mr.Pawan Kumar Chaurasia, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 11-08-2022 Heard learned counsel for the petitioner as well

as learned Additional Public Prosecutor for the State

Petitioner seeks bail in a case registered in
connection with Motipur P.S.Case No. 12 of 2020 for the
offences punishable under Sections 272 and 273 of the
Indian Penal Code and section 30(a) of the Bihar
Prohibition & Excise Act.

As per the prosecution case, it is alleged that on
secret information, that the petitioner has brought a big
consignment of liquor and concealed it somewhere in his
house. On search total 302 liters Indian made foreign liquor
was recovered. It is further alleged that from a ditch near
the house of the petitioner 600 liters of spirit was also



recovered.

It is submitted by the learned counsel for the petitioner that he was neither arrested on the spot nor any incriminating material has been recovered from person or possession of the petitioner . It is further submitted that the alleged recovery was made nearby Bathan of the house of the petitioner which is not the exclusive possession of the petitioner rather the same is in the joint possession of the family. It is next submitted that only because of the past criminal antecedent, the name of the petitioner has been implicated, apart from the fact there is no independent witness to the seizure list and he has been allegedly identified by the police personnel while he was fleeing away.

On the other hand, learned counsel for the State opposed the bail application of the petitioner and submits that huge illicit liquor was recovered from the house of the petitioner apart from the fact that petitioner has multiple criminal antecedent.

Having heard the rival contentions of the parties and taking into consideration the fact that petitioner was



neither arrested on the spot nor any incriminating material has been recovered from person or possession of the petitioner. The alleged recovery has been made from bathan, which is not in the exclusive possession of the petitioner and he is in custody since 27.01.2022 apart from the fact that investigation has already been completed and charge sheet has been submitted, Moreover, criminal antecedent of a persons cannot be a sole ground for rejection of bail, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 25,000/- (Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge Excise, Muzaffarpur in connection with Motipur P.S.Case No. 12 of 2020 subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the trial.
- (ii) He will remain present on each and every date of trial till disposal of the case.
- (iii) He will not try to tamper with the evidence or



intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) The Court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancelling of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above- mentioned order shall not be delayed for purpose of or in the name of verification.

(Harish Kumar, J)

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