

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31442 of 2022

Arising Out of PS. Case No.-306 Year-2021 Thana- KUMAR KHAND District- Madhepura

MITHLESH KUMAR @ CHHOTU S/o Prabhu Paswan Resident of Village-
Chandisthan, Ward No.03, P.S.- Kumarkhand, District- Madhepura.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Uday Chand Prasad, Advocate.

For the Opposite Party/s : Mr. Damodar Prasad Tiwary, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 26-08-2022 Learned counsel for the petitioner is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Uday Chand Prasad, learned counsel for the petitioner as well as Mr. Damodar Prasad Tiwary, learned Additional Public Prosecutor for the State.

The application for grant of bail to the petitioner, above named, who has been made accused and put behind the bar in connection with Kumarkhand P. S. Case No. 306 of 2021 giving rise to Excise Case No. 853 of 2021 registered for the offences punishable under Section 30 (a) of the Bihar Prohibition and Excise Act.

As per the prosecution case, it is alleged that the police, on a secret information that the petitioner is engaged in



selling of Indian made foreign liquor, conducted raid in the house of the petitioner and on search, total 26.25 litres Indian made foreign liquor was recovered.

Learned counsel appearing on behalf of the petitioner submitted that the alleged recovery has been made from an unconstructed Bhusha Ghar, which is an open place and accessible to all. It is next submitted that from the seizure list it appears that there is no signature of any of the family members of the petitioner, which shows that the recovery has been made from a different place. It is further submitted that the petitioner was neither arrested at the spot nor any incriminating material has been recovered from his person or possession.

On the other hand, learned APP for the State opposes the bail application and submits that the petitioner has found involved in two other criminal cases, however, it appears that the petitioner is on bail in both the cases.

Having considered the submissions made on behalf of the parties and taking into account the fact that the petitioner was neither arrested at the spot nor any incriminating material has been recovered from his person or possession and the alleged recovery has been made from an unconstructed Bhusha Ghar and moreover, the petitioner is in custody since



20.02.2022, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-II-cum-Special Judge, Excise Act, Madhepura in connection with Kumarkhand P. S. Case No. 306 of 2021 giving rise to Excise Case No. 853 of 2021, subject to the condition that one of the bailors will be the close relative 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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