

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41761 of 2021**

Arising Out of PS. Case No.-63 Year-2021 Thana- MANIYARI District- Muzaffarpur

MITHUN KUMAR S/o Bhajan Sah Resident of Village- Vishunpur Gidhha,
P.S.- Maniyari, District- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Rajendra Narain, Sr. Advocate Mr. Shiv Kumar Prasad, Advocate Mr. Anant Kumar Singh, Advocate Mr. Umesh Kumar Roy, Advocate Mr. Pratik Kumar, Advocate
For the Opposite Party/s	:	Mr. Ajit Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 31-03-2022 Heard learned counsel appearing on behalf of the
petitioner and learned APP for the State.

Let the defect(s) be removed within two weeks of the
complete start of the physical Court in normal course.

Petitioner, who is in custody since 28.02.2021, seeks
regular bail in connection with Maniyari P.S. Case No. 63 of
2021 registered for offences punishable under Sections 272,
273, 302, 328/34 of the Indian Penal Code and Section 34 of the
Excise Act.

Prosecution story in brief is that the petitioner used to
sale illicit liquor and certain items like samosa and other snacks.
A case was lodged by the police officer (informant) on being



informed that the deceased Guddu Sah has died as a result of consuming illicit liquor. The doctor has reserved the opinion relating to cause of death.

Learned counsel appearing on behalf of the petitioner submits that petitioner is in custody since 28.02.2021. From the bare perusal of the FIR it appears that there is no eye witness that it is the petitioner who had made available illicit liquor and certain snacks in his shop to the victim and due to consumption of liquor Guddu Sah had died. The petitioner has been falsely implicated in the case. In course of investigation, no material has been gathered to connect the petitioner in any manner to have been committed the murder of the deceased by poisoning him. Petitioner has clean antecedent and he is in custody since 28.02.2021. In absence of any eye witness, petitioner deserves to be released on bail.

Sri Ajit Kumar, learned A.P.P., for the State has opposed the prayer for grant of bail to the petitioner. He referred to paragraph no. 13 of the supplementary case diary whereupon from chemical analysis it is found that the petitioner is engaged in selling illicit liquor and as a result of which hooch tragedy had occurred in the vicinity and even after complete prohibition in the State for selling or manufacturing of liquor, the petitioner



was found engaged in illicit trade of liquor as such he does not deserve to be enlarged on bail.

Considering the facts and circumstances of the case, having perused the FIR it appears that the informant, who is the police officer is not the eye witness. No one has supported the fact that it is the petitioner who has forcibly poisoned the informant, without going into the merits of the case, the Court below is directed to release the petitioner, above named, on bail upon furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise Act, Muzaffarpur in connection with Maniyari P.S. Case No. 63 of 2021 subject to the following conditions:

(i) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(ii) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

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

(iv) If the petitioner is found involved in similar



nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bond.

(v) The Court below is directed to verify the criminal antecedent of the petitioner as stated in paragraph no. 3 of the bail application. If any other case is pending against the petitioner as what has been stated in paragraph no. 3, this order will loose its force automatically.

(Purnendu Singh, J)

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