

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36318 of 2022

Arising Out of PS. Case No.-309 Year-2021 Thana- OBRA District- Aurangabad

Rajesh Kumar @ Rajesh Sharma Son of Late Mahagu Mistri @ Mahagu
Sharma Resident Of Bel, P.S.- Obra, District- Aurangabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ashok Kumar Singh

For the Opposite Party/s : Mr.Nitya Nand Tiwary

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 18-08-2022 Heard learned counsel appearing on behalf of the
petitioner and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioner seeks bail in connection with Obra P.S.
Case No. 309 of 2021 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 02.06.2022.

The allegation against the petitioner is to be engaged
in illegal trading/manufacturing of illicit liquor, where, there is
recovery of 92.7 litres of IMFL/country made liquor from house
of the petitioner.

Learned counsel appearing on behalf of the petitioner



submitted that the recovery of illicit liquor was made from the house of the petitioner, as per seizure list, which is occupied by other family members and, as such, it cannot be said to be recovered from conscious physical possession of the petitioner. It is also submitted that seizure list is not supported by the independent witnesses which appears to be in violation of Section 100 (4) of the Cr.P.C. While concluding the argument, it has been submitted that investigation has been completed, for which, charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, while opposing the prayer of bail, fairly conceded that recovery of illicit liquor was made from the house of the petitioner, as per seizure list.

Considering the facts and circumstances as mentioned above, as recovery of the illicit liquor was not made from the conscious physical possession of the petitioner coupled with the fact that charge-sheet has been submitted, let the petitioner, above named, is directed to be released on bail in connection with Obra P.S. Case No. 309 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Court of Additional District and Sessions Judge-cum-Special Judge, Excise-II,



Aurangabad/concerned court, subject to the conditions as mentioned under Section 437 (3) of Cr.P.C.

(Chandra Shekhar Jha, J)

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