

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37565 of 2022

Arising Out of PS. Case No.-93 Year-2022 Thana- BENIPATTI District- Madhubani

1. Sudhir Mahto Son of Ashok Mahto Resident of Village- Andhari, P.s.- Benipatti, District- Madhubani
2. Ashok Mahto Son of Ram Bilash Mahto Resident of Village- Andhari, P.s.- Benipatti, District- Madhubani

... .. Petitioner/s

Versus

The State of Bihar bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ratanakar Jha, Advocate

For the Opposite Party/s : Mr.Atul Chandra, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 24-08-2022 This matter has been taken up for out of turn hearing on mentioning slip being moved on behalf of the petitioners that the wife of petitioner no.1 is five month's pregnant and there is no one to look after her and also on the point that some rectification in the main petition is required as the rejection order of bail is only against the petitioner no.1, whereas the name of petitioner no.2 Ashok Mahto has also been mentioned inadvertently. For the said rectification, a supplementary affidavit has been filed online and a hard copy of the same has also been filed today in the Court.

In view of the aforesaid facts, hard copy of the supplementary affidavit is taken on record and the name of the



petitioner no. 2 is expunged from this petition.

Accordingly, the learned counsel for the petitioner as well as the office is directed to take necessary steps in this regard.

Heard learned counsel for the petitioner no. 1 and learned APP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in connection with Benipatti P.S. Case No.93 of 2022, registered for the alleged offences under Sections 272, 273, 34 of the Indian Penal Code and Section 30 (a) of the Bihar Prohibition and Excise Act.

As per the prosecution case, recovery of 69.600 liters of country made Nepali liquor was made from the house of the petitioner, who was not apprehended from the spot.

The learned counsel appearing on behalf of the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. The petitioner was not apprehended from the spot and nothing incriminating has been recovered from his conscious possession. The recovery has been



shown from a joint house and liability could not be fastened on the petitioner only. The charge sheet has been submitted in this case and the petitioner is in custody since 01.05.2022 and is having clean antecedent.

Learned APP opposes the prayer for bail.

Having regard to the submissions made hereinabove and considering the fact that no recovery has been shown from this petitioner, who was not arrested from the spot and further considering the submission of charge sheet and the period of custody of the petitioner, the petitioner- Sudhir Mahto is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-II-cum-Special Judge, Excise Act, Madhubani, in connection with Benipatti P.S. Case No. 93 of 2022, subject to the conditions mentioned in Section 437 (3) of the Code of Criminal Procedure and also the following conditions :

- (i) One of the bailors will be the close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive



dates or in violation of the terms of the bail,
the bail bond of the petitioner will be liable
to be cancelled by the court concerned.

V.K.Pandey/-

(Arun Kumar Jha, J)

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