

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44876 of 2022

Arising Out of PS. Case No.-369 Year-2021 Thana- MAHUA District- Vaishali

Mahabir Rai @ Mahabir Prasad Son of Late Mishri Lal Rai Resident of Village - Gopalpur, P.S. Mahua, District - Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Nityanand, Advocate

For the Opposite Party/s: Dr.Mrityunjaya Kumar Gautam, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 08-09-2022 Heard learned counsel appearing on behalf of the petitioner and learned counsel appearing on behalf of the State through virtual Court proceedings.

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

At the outset, learned counsel for the petitioner submitted that at page no.-5 of the bail petition, in the prayer portion, inadvertently, satisfaction has been wrongly typed as 'Probationary Exclusive Special Prohibition and Excise Court (II)-cum-Additional District and Sessions Judge, Hajipur, Vaishali' instead of 'In-charge Exclusive Special Prohibition and Excise Court (II)-cum-Additional District and Sessions Judge, Hajipur, Vaishali'.

Accordingly, learned counsel for the petitioner is permitted to make necessary correction during the course of the day itself.

The petitioner seeks bail in connection with Mahua P.S.



Case No. 369 of 2021 registered for the offence under Section 30(a), 32(ii), 34(ii), 38(ii) and 41(i) of the Bihar Prohibition and Excise Act, 2018.

The accused/petitioner is named in the F.I.R. and is in custody since 27.06.2022.

The allegation against the petitioner is to be engaged in illegal trading/manufacturing of illicit liquor, where, there is recovery of 2023 litres of IMFL/country made liquor from the alleged vehicle.

Learned counsel appearing on behalf of the petitioner submitted that petitioner was not apprehended on spot and, as such, it cannot be said to be recovered from conscious physical possession of the petitioner. It is also submitted that the name of petitioner surfaced on the basis of secret input. 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 opposes the prayer of bail.

Considering the facts and circumstances as mentioned above, as recovery of illicit liquor cannot be said to be made from conscious physical possession of this 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 Mahua P.S. Case No. 369 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfac-



tion of learned In-charge Exclusive Special Prohibition and Excise Court (II)-cum-Addtitional District and Sessions Judge, Hajipur, Vaishali/concerned court, subject to the conditions as mentioned under Section 437 (3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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