

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49194 of 2022**

Arising Out of PS. Case No.-334 Year-2019 Thana- SARAIYA District- Muzaffarpur

Umesh Rai @SHUSHIL Kumar Yadav @ Shushil Prasad Yadav Son of
Ramashraya Rai Resident of Village - Basantpur Patti, P.s.- Saraiya, Distt.-
Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajeev Ranjan No.Ii, Advocate
Ms. Anjana Gupta, Advocate
For the Opposite Party/s : Mr.Shailendra Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER**

2 15-10-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be
removed within a period of four weeks.

In the present case, the petitioner seeks bail in
connection with Saraiya P.S. Case No. 334 of 2019 registered for
the alleged offences under Sections 272, 273, 414 and 34 of the
Indian Penal Code and Sections 30(a), 32(ii), 38(ii) and 41(I) of
the Bihar Prohibition and Excise Act.

As per prosecution case, police received secret
information about the petitioner and other co-accused persons
unloading huge quantity of foreign liquor on vehicles. After
seeing the police party, the petitioner and other co-accused persons



fled away from the spot. On search from the seized vehicles, total 6168.600 liters of illicit foreign liquor was recovered. The name of the petitioner transpired in this case on the basis of the statement of the local *chowkidar*.

Learned counsel for the petitioner submits that petitioner is innocent and has been falsely implicated in this case. Learned counsel further submits that the name of the petitioner transpired as an accused only on the basis of statement of local *chowkidar*. The petitioner was not apprehended from the spot and no recovery has been made from his conscious possession. Learned counsel further submits that Petitioner has got no concern with the allegedly seized liquor or other co-accused persons. Neither he is the owner nor he is the driver of the seized vehicles. Similarly placed co-accused person Ajit Singh has been granted bail by a Coordinate Bench vide order dated 21.10.2019 passed in Cr. Misc. No. 46677 of 2019. Charge sheet has been submitted in this case and the petitioner is in custody since 11.05.2022.

Learned APP for the State opposes the prayer for bail of the petitioner.

Having regard to the facts and circumstances and submission made on behalf of the parties and considering the fact that the petitioner was not apprehended from the spot and no recovery has been shown from his conscious possession and



similarly placed co-accused has been granted bail by this court and also considering the submission of charge sheet along with period of custody of the petitioner, the petitioner above named 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 Exclusive Special Judge (Excise), Court No.-II, Muzaffarpur in connection with Saraiya P.S. Case No. 334 of 2019, 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 a 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.

(Arun Kumar Jha, J)

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