

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.58849 of 2022**

Arising Out of PS. Case No.-427 Year-2020 Thana- ATRI District- Gaya

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Banwari Choudhry @ Bando Choudhry @ Banwari @ Banbari Chaudhary  
Son Of Preman Chaudhary R/O Village- Mahamadpur, P.O.- Dhandhar, P.S.-  
Atri, Distt.- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

|                    |   |                                |
|--------------------|---|--------------------------------|
| For the Petitioner | : | Mr. Yogesh Kumar, Advocate     |
|                    | : | Mr. Kanishk Kaustubh, Advocate |
| For the State      | : | Mr. Navin Kumar Pandey, APP    |

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**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA**  
**ORAL ORDER**

2      19-11-2022                      Heard learned counsel appearing on behalf of the  
petitioner and learned APP 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 Atri P.S.  
Case No. 427 of 2020 registered for the offence under Sections  
272 and 273 of the Indian Penal Code and Section 30(a)(d) of  
the Bihar Prohibition and Excise Act.

The accused/petitioner is named in the F.I.R. and is in  
custody since 19.05.2022.

The allegation against the petitioner is to have  
involved in the manufacturing activities of illicit liquor, where



recovery of 80 litres and 20 litres aluminum utensils, along with brewing equipment( Utensils used for distillation purposes), were made from open area of mountain.

Learned counsel appearing on behalf of the petitioner submitted that the alleged recovery of illicit utensils and machines were found from the open area of the mountain, which is an open place, and easily accessible by general public, where merely on the basis of suspicion as raised by the villagers the name of petitioner surfaced in the present case. It is further submitted that the seizure list appears doubtful, being not supported by independent witnesses, rather by police personnels creates further doubt over entire course of recovery/ seizure. While concluding the argument, it is submitted that investigation in this case is complete 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.

In view of the facts and circumstances, as mentioned above, as recovery of alleged utensils and brewing equipment(machines used for distillation purposes) alleged to be used for manufacturing, were recovered from an open place, which is easily accessible by general public, coupled with the



fact that charge sheet has already been submitted, let the petitioner, above named, is directed to be released on bail in connection with Atri P.S. Case No. 427 of 2020 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, Excise Court No.1, Gaya/concerned Court, subject to the condition as mentioned under Section 437(3) of the Cr.P.C.

**(Chandra Shekhar Jha, J)**

S.Tripathi/-

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