

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.29040 of 2022**

Arising Out of PS. Case No.-54 Year-2021 Thana- MOTIPUR District- Muzaffarpur

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Upendra Rai, Son of Bishu @ Vishwa Nath Ray Resident of village - Mahana  
Road, P.s.- Motipur, Distt.- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Jai Prakash Verma

For the Opposite Party/s : Mr. Anil Kumar Singh No. 1

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**CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR**

ORAL ORDER

3      06-01-2023                      Heard Ld. counsel for the petitioner and Ld. APP  
for the State.

The petitioner seeks bail in connection with Motipur  
P. S. Case No. 54 of 2021, registered for the offences  
punishable under Sections 30(a) and 41(1)(2) of the Bihar  
Prohibition and Excise Act, 2016.

As per allegation, 51.840 litres of liquor was  
recovered from a Wagan-R car, bearing Registration No.



DL2CZ-5566.

Ld. counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. He further submits that nothing has been recovered from the conscious possession of the petitioner. The name of the petitioner has transpired only on the basis of confessional statement, which has no evidentiary value in the eyes of law. He also submits that the car does not belong to the petitioner; he is neither the driver of the car nor is the owner. He further submits that other co-accused persons, namely, Vikas Kumar, Rupa Tiwary @ Rupa Tiwari and Bhola Tiwari @ Kanhai Tiwari have already been enlarged on bail by different Benches of this Court *vide* orders dated 17.09.2021, 03.01.2022 and 09.02.2022, passed in Cr. Misc. No. 39315 of 2021, Cr. Misc. No. 34222 of 2021 and Cr. Misc. No. 54381 of 2021, respectively.

He further submits that the petitioner has been languishing in jail since 17.02.2022.

It has also been stated in paragraph no. 3 of the



bail petition that the petitioner has earlier been made accused in three other cases, namely, Muzaffarpur Town P. S. Case No. 44 of 2022, Maniyari P. S. Case No. 19 of 2022 and Motipur P. S. Case No. 339 of 2021.

It is also stated in paragraph no. 2 of the bail petition that the petitioner has not moved this Court earlier in this case either for anticipatory bail or regular one.

However, Ld. APP for the State vehemently opposes the prayer of the petitioner for bail.

Considering the aforesaid facts and circumstances, this application is allowed, directing the petitioner, above-named, to be released on bail on his furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) with two sureties of the like amount each to the satisfaction of Ld. Special Judge, (Excise), Court No. II, Muzaffarpur, in connection with Motipur P. S. Case No. 54 of 2021 on the following conditions:

(i) The petitioner will make himself available for interrogation by a police officer/court as and when required.

(ii) The petitioner will undertake that



investigation/trial will not hamper on account of his absence or non-cooperation. He must be available to the police or the court whenever his presence is required.

(iii) The petitioner shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.

(iv) In case, it is brought to the notice of the court below that the petitioner has criminal antecedents other than the disclosed one, Ld. court below shall cancel the bail bonds of the petitioner after hearing him and getting satisfied that the petitioner has concealed his criminal antecedents despite his knowledge of the same.

(v) In case, it is brought to the notice of the court below that statement regarding previous bail petition is wrong, Ld. court below shall cancel the bail bonds of the petitioner.

Ld. counsel for the petitioner is directed to remove all the defects, if any, pointed out by the office within a



period of one month and the Registry is directed to issue the  
certified copy of this order only after removal of office  
objections.

**(Jitendra Kumar, J)**

skm/-

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