

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41641 of 2023

Arising Out of PS. Case No.-280 Year-2022 Thana- ISUAPUR District- Saran

Hare Ram Mahto Son Of Late Heera Mahto Resident Of Village - Doila, P.S.-
Isuapur, District - Saran.

... .. Petitioner/S

Versus

The State of Bihar.

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 29313 of 2023

Arising Out of PS. Case No.-280 Year-2022 Thana- ISUAPUR District- Saran

SANJEEV KUMAR S/O ASHOK KUMAR SRIVASTAVA R/O Swastik
Partment, Tengra More Birdopur, P.S- Ram Nagar, Distt.- Varanasi (U.P)

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 29321 of 2023

Arising Out of PS. Case No.-280 Year-2022 Thana- ISUAPUR District- Saran

ARJUN SINGH @ ARJUN KUMAR Son of Subash Singh Resident of
Village - Asoiya East, P.S.- Marhowrah, Distt.- Saran at Chapra.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 42739 of 2023

Arising Out of PS. Case No.-280 Year-2022 Thana- ISUAPUR District- Saran

SANJAY MAHTO Son of Hati Lal Mahto R/o Village - Daila, P.S.- Isuapur,
District - Saran.

... .. Petitioner/s

Versus

The State of Bihar.



... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 41641 of 2023)

For the Petitioner/s : Mr.Alok Kumar Alok, Advocate

For the Opposite Party/s : Mr.Sanjay Kumar Tiwary, APP

(In CRIMINAL MISCELLANEOUS No. 29313 of 2023)

For the Petitioner/s : Mr.Hansraj, Advocate

For the Opposite Party/s : Mr.Rajendra Prasad Nat, APP

(In CRIMINAL MISCELLANEOUS No. 29321 of 2023)

For the Petitioner/s : Mr.Vijay Kumar, Advocate

For the Opposite Party/s : Mr.Meena Singh, APP

(In CRIMINAL MISCELLANEOUS No. 42739 of 2023)

For the Petitioner/s : Mr.Nalin Kumar, Advocate

For the Opposite Party/s : Ms.Pushpa Sinha.1, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 25-07-2023

(In Cr. Misc. No. 41641 of 2023)

Heard learned counsel appearing on behalf of the petitioner and learned counsel appearing on behalf of the State.

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

3. The petitioner seeks bail in connection with Isuapur P.S. Case No. 280 of 2022 registered for the offence under Sections 272, 273, 328, 308, 304, 120(B) of the Indian Penal Code and Section 33/34 of Bihar Prohibition and Excise Act.

4. The accused/petitioner is named in the F.I.R. and is in custody since 03.01.2023.

5. The allegation against the petitioner is to be engaged in illegal trading/manufacturing of illicit liquor, where, there is recovery of 30 litres of IMFL/country made liquor



behind the shop of this petitioner.

6. Learned counsel appearing on behalf of the petitioner submitted that the alleged recovery of illicit liquor appears to be made from an open place i.e. behind the shop of this petitioner, and as such, it can be said safely that alleged recovery was not made from conscious physical possession of this petitioner. It is further pointed out that during the course of investigation, it appears that petitioner purchased spurious illicit liquor from co-accused Ram Babu Mahto, who has granted bail by this Court through Cr. Misc. No. 41157 of 2023 dated 20.07.2023. While travelling over the argument, it is pointed out that during the course of investigation, nothing surfaced, which may connect petitioner *prima facie* with alleged spurious liquor, which cause death of consumers. While concluding the argument, it is submitted that investigation of this case is completed, for which charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

7. Learned APP, while opposing the prayer of bail submitted that petitioner found involved in three more criminal cases of similar nature.

8. Considering the facts and circumstances as mentioned above and by taking note of fact as the spurious



liquor recovered from an open place, coupled with the fact that charge-sheet has already submitted, where petitioner is in custody since 03.01.2023, accordingly, petitioner above named, is directed to be released on bail in connection with Isuapur P.S. Case No. 280 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned IInd Additional Sessions Judge-Cum-1st Exclusive Special Judge Excise Saran, Chhapra/concerned Court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C., with further conditions:-

(i) That the petitioner shall not involve in similar nature of offence till the conclusion of trial, failing which, the State shall be at liberty to move before the learned Trial Court itself for the cancellation of bail bond of the petitioner.

(ii) Accused/Petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner duly supported by the documents.

(iii) One of the bailor shall be



deponent of the present bail petition.

(In Cr. Misc. No. 29313 of 2023)

Heard learned counsel appearing on behalf of the petitioner and learned counsel appearing on behalf of the State.

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

3. The petitioner seeks bail in connection with Isuapur P.S. Case No. 280 of 2022 registered for the offence under Sections 272, 273, 328, 308, 304, 120(B) of the Indian Penal Code and Section 33/34 of Bihar Prohibition and Excise Act, 2016.

4. The accused/petitioner is not named in the F.I.R. and is in custody since 27.12.2022.

5. The allegation against the petitioner is to supply Homeopathy Medicine with such degree of Spirit which is not permissible under Excise Act, causing death of 11 persons.

6. Learned counsel appearing on behalf of the petitioner submitted that the name of this petitioner surfaced on the basis of confessional statement of co-accused, namely, Rajesh Singh, who has granted bail by one of the learned co-ordinate Bench of this Court through Cr. Misc. No. 33630 of 2023 dated 24.05.2023. It is submitted that the maximum



allegation against this petitioner is to supply Homeopathy Medicine which alleged to be used for the purpose of making spurious liquor. It is submitted that allegation is to supply the said Homeopathy Medicine to co-accused Rajesh Singh. It is also pointed out that entire implication is based upon suspicion as no such recovery of spurious liquor/medicine was made from the possession of this petitioner during the course of investigation. While concluding the argument, it is submitted that petitioner is a man of clean antecedent and moreover, investigation of this case is completed, for which charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

7. Learned APP, opposes the prayer of bail.

8. Considering the facts and circumstances as mentioned above as no such Homeopathy Medicine appears to be recovered from the possession of this petitioner, coupled with the fact that charge-sheet has already submitted, where petitioner is in custody since 27.12.2022, accordingly, petitioner above named, is directed to be released on bail in connection with Isuapur P.S. Case No. 280 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of



learned A.D.J.-IInd-Cum-Special Judge-I, Excise Act, Saran, Chhapra/concerned Court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.

(In Cr. Misc. No. 29321 of 2023)

Heard learned counsel appearing on behalf of the petitioner and learned counsel appearing on behalf of the State.

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

3. The petitioner seeks bail in connection with Isuapur P.S. Case No. 280 of 2022 registered for the offence under Sections 272, 273, 328, 308, 304, 120(B) of the Indian Penal Code and Section 33/34 of Bihar Prohibition and Excise Act, 2016.

4. The accused/petitioner is not named in the F.I.R. and is in custody since 26.12.2022.

5. The allegation against the petitioner is to be engaged in illegal trading/manufacturing of spurious liquor, causing death of 11 persons.

6. Learned counsel appearing on behalf of the petitioner submitted that the name of this petitioner surfaced on the basis of confessional statement of co-accused, namely, Rajesh Singh, who has granted bail by one of the learned co-



ordinate Bench of this Court through Cr. Misc. No. 33630 of 2023 dated 24.05.2023. It is submitted that no illicit liquor alleged to be recovered from the physical possession of this petitioner. While concluding the argument, it is submitted that petitioner is a man of clean antecedent and moreover, investigation of this case is completed, for which charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

7. Learned APP, opposes the prayer of bail.

8. Considering the facts and circumstances as mentioned above as save and except suspicion as arises out of confession of co-accused, no recovery of illicit liquor/spurious liquor appears to be made from the physical possession of this petitioner, coupled with the fact that charge-sheet has already submitted, where petitioner is in custody since 26.12.2022, accordingly, petitioner above named, is directed to be released on bail in connection with Isuapur P.S. Case No. 280 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Addl. Distt. and Session Judge 2nd Cum 1st Exclusive Special Judge Excise, Sara at Chapra/concerned Court, subject to the conditions as mentioned under Section 437(3) of the



Cr.P.C.

(In Cr. Misc. No. 42739 of 2023)

Heard learned counsel appearing on behalf of the petitioner and learned counsel appearing on behalf of the State.

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

3. The petitioner seeks bail in connection with Isuapur P.S. Case No. 280 of 2022 registered for the offence under Sections 272, 273, 328, 308, 304, 120(B) of the Indian Penal Code and Section 33/34 of Bihar Prohibition and Excise Act, 2016.

4. The accused/petitioner is not named in the F.I.R. and is in custody since 24.12.2022.

5. The allegation against the petitioner is to be engaged in illegal trading/manufacturing of illicit liquor, causing death of 11 persons.

6. Learned counsel appearing on behalf of the petitioner submitted that the name of this petitioner surfaced on the basis of confessional statement of co-accused, namely, Ram Babu Mahto, who was granted bail by this Court through Cr. Misc. No. 41157 of 2023 dated 20.07.2023. It is submitted that nothing surfaced during the course of investigation which may



connect petitioner *prima facie* with the alleged recovery of illicit liquor, causing death of 11 persons. While concluding the argument, it is submitted that petitioner found involved in two more criminal cases, where he is on bail and moreover, investigation of this case is completed, for which charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

7. Learned APP, opposes the prayer of bail.

8. Considering the facts and circumstances as mentioned above as save and except confessional statement of co-accused, nothing incriminating material recovered/surfaced during the course of investigation against this petitioner *prima facie* to connect him with alleged death, caused after consumption of spurious liquor, coupled with the fact that charge-sheet has already submitted, where petitioner is in custody since 24.12.2022, accordingly, petitioner above named, is directed to be released on bail in connection with Isuapur P.S. Case No. 280 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Addl. Distt. and Sessions Judge, Excise, Saran at Chapra/concerned Court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.,



with further conditions:-

(i) That the petitioner shall not involve in similar nature of offence till the conclusion of trial, failing which, the State shall be at liberty to move before the learned Trial Court itself for the cancellation of bail bond of the petitioner.

(ii) Accused/Petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner duly supported by the documents.

(iii) One of the bailor shall be deponent of the present bail petition.

(Chandra Shekhar Jha, J)

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