

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42866 of 2023

Arising Out of PS. Case No.-799 Year-2023 Thana- PHULWARISHARIF District- Patna

1. Rocky Kumar Son Of Late Kallu Yadav Village Punpun Ps- Punpun, District- Patna
2. Munna Kumar Rai @ Munna Kumar Son Of Fuddu Rai @ Fudu Rai @ Phattu Rai Resident Of Village- Tarwar, Ps- Parsa Bazar, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 43070 of 2023

Arising Out of PS. Case No.-799 Year-2023 Thana- PHULWARISHARIF District- Patna

Bunty Kumar @ Ashish Kumar Son Of Prakash Singh @ Prakash Narayan
Resident Of Pethiya Bazar, P.S.- Phulwari Sharif, District - Patna, Bihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 42866 of 2023)

For the Petitioner/s : Mr. N.K. Agarwal, Sr. Advocate

For the Opposite Party/s : Mr. Ram Sevak Choudhary, APP

(In CRIMINAL MISCELLANEOUS No. 43070 of 2023)

For the Petitioner/s : Mr. Aditya Prakash Sahay, Advocate

For the Opposite Party/s : Mr. Chandra Sen Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 26-07-2023

CRIMINAL MISCELLANEOUS No.42866 of 2023

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

2. The petitioner seeks bail in connection with



Phulwarisharif P.S. Case No.799 of 2023 registered for the offence under Section 370 of the Indian Penal Code, Sections 3, 4, 5, 6, 7 and 8 of the Immoral Traffic (Prevention) Act and Section 30(a) of the Bihar Prohibition and Excise Act.

3. The accused/petitioner is named in the F.I.R. and is in custody since 05.06.2023.

4. The allegation against the petitioner is to found involved in immoral practice, as so caught by raiding party in compromising position.

5. Learned senior counsel appearing on behalf of the petitioner submitted that petitioner is neither owner nor care taker/manager of the premises or having any controlling authority regarding activities of the premises and as such implication of the Section 3, 4, 5, 6 and 7 of the Immoral Traffic (Prevention) Act, 1956 (in short Act) not appears convincing on its face, *qua*, petitioner. It is submitted that maximum imprisonment available against petitioner under Section 8 of the Act is of six months, which appears bailable in nature. It is further submitted that recovery of illicit liquor was made from the counter of the alleged guest house and not from the conscious physical possession of this petitioner. While concluding the argument, it is submitted that petitioner is a man



of clean antecedent.

6. Learned APP appearing on behalf of the State, opposes the prayer for bail.

7. In view of the facts and circumstances and by taking note of the fact as petitioner is neither owner nor controlling/administrative authority of the alleged guest house, who is a man of clean antecedent, where petitioner is in custody since 05.06.2023, accordingly, petitioner, above named, is directed to be released on bail in connection with Phulwarisharif P.S. Case No.799 of 2023 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise, Patna/concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C. with further conditions :-

(i) That petitioner shall not involve in the similar nature of offence till the conclusion of trial, failing which, the State shall be at liberty to move before the 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) That one of the bailors shall be deponent of the present bail petition.

CRIMINAL MISCELLANEOUS No. 43070 of 2023

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

2. The petitioner seeks bail in connection with Phulwarisharif P.S. Case No.799 of 2023 registered for the offence under Section 370 of the Indian Penal Code, Sections 3, 4, 5, 6, 7 and 8 of the Immoral Traffic (Prevention) Act and Section 30(a) of the Bihar Prohibition and Excise Act.

3. The accused/petitioner is named in the F.I.R. and is in custody since 05.06.2023.

4. The allegation against the petitioner is to found involved in immoral practice, as so caught by raiding party in



compromising position.

5. Learned senior counsel appearing on behalf of the petitioner submitted that petitioner is neither owner nor care taker/manager of the premises or having any controlling authority regarding activities of the premises and as such implication of the Section 3, 4, 5, 6 and 7 of the Immoral Traffic (Prevention) Act, 1956 (in short Act) not appears convincing on its face, *qua*, petitioner. It is submitted that maximum imprisonment available against petitioner under Section 8 of the Act is of six months, which appears bailable in nature. It is further submitted that recovery of illicit liquor was made from the counter of the alleged guest house and not from the conscious physical possession of this petitioner. While concluding the argument, it is submitted that petitioner is a man of clean antecedent.

6. Learned APP appearing on behalf of the State, opposes the prayer for bail.

7. In view of the facts and circumstances and by taking note of the fact as petitioner is neither owner nor controlling/administrative authority of the alleged guest house, who is a man of clean antecedent, where petitioner is in custody since 05.06.2023, accordingly, petitioner, above named, is



directed to be released on bail in connection with Phulwarisharif P.S. Case No.799 of 2023 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise, Patna/concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C. with further conditions :-

(i) That petitioner shall not involve in the similar nature of offence till the conclusion of trial, failing which, the State shall be at liberty to move before the 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) That one of the bailors
shall be deponent of the present bail
petition.

(Chandra Shekhar Jha, J)

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