

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.45157 of 2023**

Arising Out of PS. Case No.-116 Year-2023 Thana- BUXAR INDUSTRIAL District- Buxar

Chandan Kumar @ Chandan Yadav S/O Radhe Shyam Yadav R/O Village-  
Majhariya, Ps. Buxar (IND.), Dist. Buxar

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

with

**CRIMINAL MISCELLANEOUS No. 46080 of 2023**

Arising Out of PS. Case No.-116 Year-2023 Thana- BUXAR INDUSTRIAL District- Buxar

Shyam Bihari Mallah S/O Sipahi Mallah R/O Village- Simri (khaira Patti),  
P.S- Simri, Distt.- Buxar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

(In CRIMINAL MISCELLANEOUS No. 45157 of 2023)

For the Petitioner/s : Mr.Dr. Kamal Deo Sharma, Advocate

For the Opposite Party/s : Ms.Asha Devi, APP

(In CRIMINAL MISCELLANEOUS No. 46080 of 2023)

For the Petitioner/s : Mr.Setu Prateek, Advocate

For the Opposite Party/s : Mr.Abhay Kumar Roy, APP

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



2 02-08-2023

**CRIMINAL MISCELLANEOUS No.45157 of 2023**

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

2. The petitioner seeks bail in connection with Buxar (Ind. Area) P.S. Case No. 116 of 2023 registered for the offence under 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 24.05.2023.

4. The allegation against the petitioner is to be engaged in illegal trading/manufacturing of illicit liquor, where, there is recovery of 131.4 litres of IMFL/country made liquor.

5. Learned counsel appearing on behalf of the petitioner submitted that recovery of alleged illicit liquor appears to be made from the boat, which is easily accessible by general public and as such it can be safely said that alleged recovery of illicit liquor not appears to be made from the conscious physical possession of the petitioner. It is also submitted that seizure list appears doubtful being not supported by independent witnesses rather by police personnels. While concluding the argument, it is submitted that petitioner found involved in three more criminal cases, where he is on bail and moreover, investigation of this case has been completed, for which, charge-sheet has been submitted, as such, there is no



chance of tampering with the evidence.

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

7. In view of facts and circumstances as mentioned above and by taking note of the fact as recovery of illicit liquor not appears to be made from the conscious physical possession of the petitioner, coupled with the fact that charge-sheet has already submitted, where petitioner is in custody since 24.05.2023, accordingly, above named petitioner is directed to be released on bail in connection with Buxar (Ind. Area) P.S. Case No. 116 of 2023 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, Excise Court No.1, Buxar/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 indulge in any criminal case 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) That accused/petitioner shall cooperate in the trial and shall be physically present on each and every date before the learned Trial Court till the conclusion of trial and exemption from physical appearance be allowed by the learned 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. 46080 of 2023**

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

2. The petitioner seeks bail in connection with Buxar (Ind. Area) P.S. Case No. 116 of 2023 registered for the offence under 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 19.05.2023.

4. The allegation against the petitioner is to be engaged in illegal trading/manufacturing of illicit liquor, where,



there is recovery of 131.4 litres of IMFL/country made liquor.

5. Learned counsel appearing on behalf of the petitioner submitted that recovery of alleged illicit liquor appears to be made from the boat, which is easily accessible by general public and as such it can be safely said that alleged recovery of illicit liquor not appears to be made from the conscious physical possession of the petitioner. It is also submitted that seizure list appears doubtful being not supported by independent witnesses rather by police personnels. While concluding the argument, it is submitted that petitioner found involved in one more criminal case, where he is on bail and moreover, investigation of this case has been completed, for which, charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

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

7. In view of facts and circumstances as mentioned above and by taking note of the fact as recovery of illicit liquor not appears to be made from the conscious physical possession of the petitioner, coupled with the fact that charge-sheet has already submitted, where petitioner is in custody since 19.05.2023, accordingly, above named petitioner is directed to



be released on bail in connection with Buxar (Ind. Area) P.S. Case No. 116 of 2023 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, Excise Court No.1, Buxar/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 indulge in any criminal case 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) That accused/petitioner shall cooperate in the trial and shall be physically present on each and every date before the learned Trial Court till the conclusion of trial and exemption from physical appearance be allowed by the learned 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)**

S.Tripathi/-

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