

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47634 of 2023

Arising Out of PS. Case No.-137 Year-2021 Thana- FULKAHA District- Araria

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KUNDAN YADAV @ KUNDAN KUMAR YADAV s/O- UMESH YADAV
Village- Khaira Chanda Ps- narpatganj Dist- Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mukesh Kumar Rana, Advocate
For the Opposite Party/s : Mr. Rajendra Prasad Nat, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 09-08-2023 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 Fulkaha
P.S. Case No. 137 of 2021 registered for the offence under Section
30(a) and 41(i) of the Bihar Prohibition and Excise Act and under
Section 25(1-B)a, 26 and 35 of the Arms Act.

3. The accused/petitioner is named in the F.I.R. and is in
custody since 16.05.2023.

4. The allegation against the petitioner is to be engaged
in illegal trading/manufacturing of illicit liquor, where, there is
recovery of 210 litres of IMFL/country made liquor from the
alleged vehicle.

5. Learned counsel appearing on behalf of the petitioner
submitted that alleged recovery of illicit liquor made from a



vehicle, which was jointly occupied by other co-accused persons and it can be said safely that recovery of alleged illicit liquor not appears to be made from conscious physical possession of this petitioner. While concluding the argument, it has been submitted that petitioner found involved in seven more criminal cases of similar nature, 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 opposes the prayer of bail.

7. Considering the facts and circumstances as mentioned above, as recovery of alleged illicit liquor not appears to be made from conscious physical possession of this petitioner coupled with the fact that charge-sheet has already submitted, where petitioner is in custody since 16.05.2023, accordingly, above named petitioner is directed to be released on bail in connection with Fulkaha P.S. Case No. 137 of 2021 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-II, Araria/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) 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)

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