

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61132 of 2022

Arising Out of PS. Case No.-221 Year-2022 Thana- MADHAURAH District- Saran

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OM PRAKASH MISHRA @ MITHUN MISHRA @ BABA @ MITHU SON
OF ASHOK MISHRA R/O VILLAGE- MISHRAWALIYA, P.S.-
JALALPUR, DISTRICT- SARAN

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Chandra Mohan Jha

For the Opposite Party/s : Ms. Indu Kumari Srivastava

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

2 13-01-2023 Heard Ld. counsel for the petitioner and Ld. APP

for the State.

The petitioner seeks bail in connection with

Marhowrah P.S. Case No. 221 of 2022, registered for the

offences punishable under Sections 30, 30(a) and 41 of

Bihar Prohibition and Excise Act, 2016.

As per allegation, total 140 litres of spirit was

recovered from a car.

Ld. counsel for the petitioner submits that the

petitioner is innocent and has falsely been implicated in this

case. He further submits that the petitioner is dragged in this

case only in the confessional statement of co-accused. He



also submits that the petitioner is neither the driver nor the owner of the vehicle and thus he was not aware of the content of the materials loaded in the vehicle. He further submits that nothing has been recovered from the conscious possession of the petitioner. He also submits that search and seizure has not been made as per the procedure as prescribed under Section 100 Cr. P.C.

He further submits that the petitioner has been languishing in jail since 16.06.2022.

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.

It is also stated in paragraph no. 2 of the bail petition that the petitioner has not moved this Court earlier 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 enlarged 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. 2nd Exclusive Special Excise Court, Saran at Chhapra in connection with Marhowrah P.S. Case No. 221 of 2022 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 bond 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 bond 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)

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