

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75937 of 2023

Arising Out of PS. Case No.-401 Year-2023 Thana- SHAHPUR PATORI District- Samastipur

Mukesh Kumar @ Mukesh Kumar Ray @ Sadhu S/O Musafir Roy, South
Dumri (CHAPRA), PS. Patori (MOHANPUR Op), Dist. Samastipur, Bihar-
848101.

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Piyush Kumar Pandey

For the Opposite Party/s : Mr.Lalan Kumar

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 29-11-2023 Heard learned counsel for the petitioner and
learned A.P.P. for the State.

2. The petitioner seeks bail in connection with Patori
(Mohanpur OP) P.S. Case No. 401/2023, corresponding to the
Excise G.R. No.263/2023 registered for the offences punishable
under Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, there was alleged
recovery of total 155.520 liters foreign liquor from the
ambulance. It is alleged that the petitioner was not apprehended
on the spot and apprehended co-accused Umesh Sah disclosed
the name of present petitioner. It is further alleged that the said
liquor was being brought at the behest of the present petitioner.

4. Learned counsel for the petitioner submits that



petitioner is innocent and has falsely been implicated in this case. Nothing has been recovered from the conscious possession of the petitioner. The petitioner is languishing in custody since 25.09.2023 and bears no criminal antecedent. He further submits that the petitioner was neither owner of the said ambulance nor was concerned with the seized liquor. He further submits that except confessional statement of co-accused, there is nothing on record to demonstrate the complicity of the present petitioner with the alleged occurrence. He further submits that the seizure list has not been prepared as per the law. He further submits that apprehended co-accused Umesh Sah has already been granted bail by the co-ordinate Bench of this court vide Cr. Misc. No.50087/2023 and the case of present petitioner stands on better footing as he has not apprehended on the spot.

5. The learned A.P.P. for the State vehemently opposed the prayer for bail of the petitioner.

6. Considering the facts and circumstances of the case, period of custody, petitioner is not apprehended on the spot, apprehended co-accused has already been granted bail, keeping in view clean antecedent of petitioner, argument advanced on behalf of both sides and also taking into consideration the material available on record, let the petitioner



above named be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Special Excise Court-02, Samastipur in connection with Patori (Mohanpur OP) P.S. Case No. 401/2023, corresponding to the Excise G.R. No.263/2023, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial Court itself.

(iii) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

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