

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29696 of 2024

Arising Out of PS. Case No.-83 Year-2023 Thana- SAMSTIPUR RAIL P.S District-
Samastipur

Kishundeo Mahto Son of Bhola Mahto Resident of Village- Maheshpura,
Ward No.-03, P.S.- Jhanjharpur, District- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Jata Shankar Jha, Advocate
For the Opposite Party/s : Mr. Nitya Nand Tiwary, APP

**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

2 20-04-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner seeks bail in Samastipur Rail P.S.
Case No. 83 of 2023, instituted for the offences punishable
under Section 30(a) of the Bihar Prohibition and Excise Act.

3. The prosecution case, in short, is that, 4.5 liters
liquor was recovered from the bag of the petitioner and the
petitioner was apprehended on spot.

4. Learned counsel for the petitioner submits that the
petitioner is innocent and has falsely been implicated in the
present case. No incriminating material has been recovered from
the conscious possession of the petitioner. The petitioner has got
no concern with the alleged recovery of liquor. The present case



is misuse of privilege of bail earlier granted to the petitioner. Earlier the petitioner was granted bail 25.05.2023 by the learned Court below. It is submitted that on 19.06.2023 no witness was produced and the petitioner was also not present in the court. The case was fixed on 21.06.2023 and the petitioner could not appear on the said date. On 03.07.2023, again the case was fixed for statement of the accused but the accused was not present in the court. The learned Court below cancelled the bail bond of the petitioner and non-bailable warrant of arrest has been issued on 03.07.2023. The petitioner surrendered in the Court below on 23.01.2024. The petition for bail was moved on 08.02.2024 but the same was rejected. Thus, there is misuse of privilege of bail for six months. He further submitted that summon and the warrant were not served on him properly nor any service report has been received in the learned Court below. Learned counsel further submitted that petitioner undertakes to abide by any conditions imposed by this Court, if released on bail.

5. Learned APP for the State has vehemently opposed the prayer for grant of bail to the petitioner.

6. Considering the aforesaid facts and circumstances of the case and the period of custody undergone by the petitioner as also the undertaking given by the petitioner, this



Court is inclined to grant bail to the petitioner.

7. Let the petitioner 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 Court below/concerned Court in connection with Samastipur Rail P.S. Case No. 83 of 2023, subject to the following conditions:

(I) One of the bailors shall be own/close member of the family of the petitioner.

(II) The petitioner shall appear on each and every date fixed at the trial. In case of default in such appearance on two consecutive dates, the Trial Court will have liberty to cancel the bail bonds of the petitioner.

(III) If the petitioner is found involved in similar nature of offence in future, the Trial Court will have the liberty to cancel the bail bonds of the petitioner.

(Rudra Prakash Mishra, J)

Rajorshi/-

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