

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1748 of 2023**

Arising Out of PS. Case No.-33 Year-2022 Thana- BARURAJ District- Muzaffarpur

RANJEET SHAH @ SUNIL SAH Son of Ram Ajodhya Shah Resident of
Village - Baruraj Tole Dakahi, P.S.- Baruraj, District - Muzaffarpur.

... .. Appellant/s

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Sunil Kumar Pandey, Advocate
For the Respondent/s : Mr.Mukeshwar Dayal, APP

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

6 08-11-2023 Heard learned counsel appearing on behalf of the parties.

2. The present matter is taken on board for considering the prayer of bail and suspension of sentence of above named accused/appellant during pendency of appeal under Section 389(1) of the Code of Criminal Procedure (in short Cr.P.C.)

3. This appeal has been filed by the accused/appellant against the judgment of conviction and order of sentence dated 20.03.2023 rendered by learned Special Judge (Excise and Prohibition)- II, Civil Court, Muzaffarpur, in Special Excise Case No. 212 of 2022 arising out of Baruraj P.S. Case No. 33 of 2022, by which the learned trial court has convicted the appellant for the offences punishable under Section 30(a) of the



Bihar Prohibition and Excise Act, 2018 and sentenced him to undergo simple imprisonment for 5 years and fine of Rs. 1,00,000/- (Rupees One Lacs), and in default of payment of fine to undergo three months of simple imprisonment.

4. As per brief facts of the prosecution case, accused/appellant found in possession of 27.075 litres of IMFL (Indian Made Foreign Liquor).

5. Learned counsel appearing on behalf of the accused/appellant submitted that during the course of trial, seizure list witnesses PW-5 and PW-6 turned hostile, and, as such, recovery of illicit liquor failed to prove by prosecution during the trial and thus, the order of conviction is appearing not convincing. It is also submitted that the Chaukidar who given information regarding storage of illicit liquor in the house of accused/appellant was also not examined during the trial.

6. Learned APP opposes the prayer of bail.

7. In view of above discussed evidence, as post seizure list witnesses turn hostile making entire seizure of liquor doubtful on its face, I am inclined to consider the request made by the accused/appellant. The accused/appellant is therefore, ordered to be released on bail, during the pendency of the appeal, on executing bond of Rs. 10,000/- (Rupees Ten



Thousand) and upon furnishing two sureties of the like amount each to the satisfaction of learned Special Judge (Excise and Prohibition)- II, Civil Court, Muzaffarpur, in Special Excise Case No. 212 of 2022 arising out of Baruraj P.S. Case No. 33 of 2022.

8. The sentence imposed by the concerned trial court shall remain suspended. Realization of fine be kept in abeyance also till disposal of appeal.

9. The appellant shall co-operate in disposal of the appeal.

(Chandra Shekhar Jha, J)

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