

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2109 of 2020**

Arising Out of PS. Case No.-362 Year-2019 Thana- BAJPATTI District- Sitamarhi

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Fulbabu Rai Son of Raj Kishore Rai Resident of Village- Puparhar, P.S.-
Bajpatti, District- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Hans Lal Kumar

For the Opposite Party/s : Ms.Sucheta Yadav

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER**

3. 10-06-2020 Heard learned counsel for the parties through video conferencing.

The petitioner seeks bail in Bajpatti P.S. Case No. 362 of 2019 registered for the offence under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

As per prosecution case, 26.6 liters of Napali Saufi wine is said to have been recovered from some bags lying in the field of one Binod Mahto and police caught one person, who disclosed the name as Upendra Mahto. He also disclosed the name of petitioner as his associate, who fled away.

It is submitted on behalf of petitioner that petitioner is named in the F.I.R. only on confession of co-accused Upendra Mahto, whereas, he (petitioner) has got no concern with the seized liquor. It is further submitted that nothing has been



recovered from conscious possession of the petitioner, rather the recovery has been effected from an open field. Section 100 Cr.P.C. has not been followed with respect to search and seizure. Petitioner has no criminal antecedent, as stated in paragraph – 3 of the petition.

Considering the aforesaid facts and circumstances, the bail application is allowed.

Let the above-named petitioner be enlarged on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned A.D.J.-II cum Special Judge, Excise Act, Sitamarhi in connection with Bajpatti P.S. Case No. 362 of 2019, subject to condition as laid down under Section 438(2) of the Cr.P.C.

(Prabhat Kumar Singh, J.)

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