

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12128 of 2021**

Arising Out of PS. Case No.-167 Year-2020 Thana- BIBHUTIPUR District- Samastipur

NITISH KUMAR @ JHARIYA @ NITISH KUMAR SINGH Son of Late
Ramesh Prasad Singh Resident of - Muhamadpur Sakara, Jagnathpur, P.S. -
Vibhutipur

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Prahalad Kumar Bhagat, Advocate
For the Opposite Party/s : Mr.A.G

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

2 25-06-2021 Heard learned counsel for the petitioner and the State.

Petitioner seeks regular bail in a case registered for the
offence punishable under Sections 272/273 of the IPC and
section 30a of the Bihar Prohibition and Excise Act.

As per the prosecution case, 5418 liters of wine was
recovered from a truck and other vehicle and one Kamlesh
Mahto was arrested on the spot who disclosed the name of the
petitioner.

Learned counsel appearing for the petitioner submits



that the petitioner is innocent and has falsely been implicated in this case. No incriminating material has been recovered from the conscious possession of the petitioner and he is no way concerned with the alleged recovery. Petitioner is in custody since 6.12.2020 The mandatory provision of law for search and seizure has not been followed.

Considering the rival submissions of the parties, materials available on the record and the fact that no incriminating material has been recovered from the conscious possession of the petitioner, let the petitioner, above named, be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Additional Sessions Judge II cum Special Judge, Excise Act Samastipur in Bibhutipur Police Station Case No. 167/2020/ Excise GR No. 463 of 2020 on the following conditions:-

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be cancelled by the Court below.

(2) 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.

(Prabhat Kumar Singh, J)

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