

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37336 of 2021**

Arising Out of PS. Case No.-378 Year-2020 Thana- BARHARIA District- Siwan

NIRAJ KUMAR Son of Jai Prakash Gupta @ Doma Resident of Village -
Hardobara, P.S.- Barharia, Distt.- Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Raghav Prasad, Adv.

For the Opposite Party/s : Mr. A.P.P.

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

4 22-12-2021 Let the defects, as pointed out by the office, be removed within four weeks of starting of Court proceeding in physical mode in normal course.

A supplementary affidavit, carrying out necessary correction in the main application in light of modified impugned order, has been filed on behalf of the petitioner, which forms part of this application.

Heard learned counsel for the petitioner and the learned A.P.P. for the State.

The petitioner seeks bail in connection with Barharia P.S. Case No. 378 of 2020 registered for the offence under Sections 272, 273 and 34 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act.

Recovery is of 469.05 liters of illicit liquor.



Learned counsel appearing for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. In fact, nothing has been recovered from the conscious possession of the petitioner rather the alleged recovery has been made from septic tank. He has no concern with the alleged recovery and the alleged tank. Moreover, the co-accused, namely, Prakash Gupta @ Doma, having more or less similar allegation, has already been granted bail by a co-ordinate Bench of this Court vide order dated 27.10.2021 passed in Cr. Misc. No. 31644 of 2021. The petitioner is rotting in judicial custody since 09.03.2021.

Learned A.P.P. for the State has opposed the prayer for bail of the petitioner and submits that the petitioner carries three more cases other than the present one.

Considering the facts and circumstances of the case, let the, above named, petitioner 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 learned 2nd Additional Sessions Judge-II -cum- Special Judge, Excise, Siwan in connection with Barharia P.S. Case No. 378 of 2020 with 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 canceled 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.

And, further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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