

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38999 of 2021**

Arising Out of PS. Case No.-203 Year-2021 Thana- DARIYAPUR District- Saran

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Pramod Kumar S/o Bindeshwar Rai Resident of Village- Mithanpura, P.S.-
Kanti, District- Muzaffarpur.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Radha Mohan Singh

For the Opposite Party/s : Mrs.Veena Rani Prasad

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

2. 24-09-2021 Heard learned counsel for the parties through video conferencing.

The petitioner seeks bail in Dariyapur P.S. Case No. 203 of 2021, registered for the offence under Sections 372, 373, 420, 120(B) of the Indian Penal Code and Sections 30(a), 33, 36 and 41(i) of Bihar Prohibition and Excise Act.

As per the prosecution case, 5200 liters spirit has been recovered from a truck, which was being driven by this petitioner, and was arrested on the spot.

It is submitted on behalf of petitioner that nothing has been recovered from the conscious possession of the petitioner. Petitioner, being driver, was unaware about the nature of consignment and was simply following the instruction of the owner. Petitioner has got clean antecedent and is in custody since 29.04.2021.



It is further submitted by the counsel for the petitioner that apart from offences punishable under the Excise Act, F.I.R. has also been registered for the offences punishable under Sections 372, 372, 420 and 120(B) of the Indian Penal Code, but from bare perusal of the Indian Penal Code, it is apparent that Section 372 speaks about *selling minor for the purpose of prostitution*, Section 373 says about *buying minor for purpose of prostitution*, Section 420 says about *cheating and dishonestly inducing delivery of property* and Section 120(B) says about *punishment of criminal conspiracy*, but no such offence is made out against this petitioner and therefore, above provisions of the Indian Penal Code are not applicable in this case.

Learned A.P.P. for the State has opposed the bail petition.

Considering the nature of allegation, period of custody and clean antecedent of the petitioner, the bail petition of petitioner is allowed. 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 Addl. Sessions Judge-cum-Special Judge, Excise, Saran at Chapra in connection with Dariyapur P.S. Case No. 203 of 2021, on the following conditions:



“(1) Petitioner shall cooperate in the trial and shall be properly represented on each and every date fixed by the court below and shall remain physically present, as directed by the court below, and on his absence on two consecutive dates without sufficient reason, his 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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