

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43143 of 2021**

Arising Out of PS. Case No.-210 Year-2020 Thana- BODHGAYA District- Gaya

SANTU KUMAR S/O JITENDRA KUMAR @ JITENDAR KUMAR R/O
VILLAGE-DALELCHAK (BHINDASPUR), P.S-BELAGANJ, DISTRICT-
GAYA.

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Sinha, Adv
	:	Mr. Manish Kumar No2
For the Opposite Party/s	:	Mr. Narendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 04-10-2021

The petitioner's counsel had filed a slip for out of turn listing of the matter which was listed down below on the cause list of this Court at Serial No. 1935 dated 27.09.2021. The reason for urgency was stated to be the fact that the petitioner was an applicant for appearing at the competitive examination being conducted by the Staff Selection Commission commencing from 07.10.2021, as per photocopy of Admit Card attached with the mentioning slip.

Two other slips were also filed on behalf of the others for listing of two other cases which were also listed down below on the cause list of this Court on the same ground that the said petitioners are applicants for appearing at the same competitive examination. They are numbered as



Cr. Misc. No.29711 of 2021 and Cr. Misc. No. 54801 of 2021.

This Court was inclined to accept the reason for consideration of the matter out of turn.

To condole the sad demise of some members of the Bar, a Full Court Reference was scheduled at 1:15 pm on 1.10.2021 and Courts were sitting only in the first half. Therefore, the matter could not have been listed in the second half when bail matters were assigned to this Court, and could only be listed in the first half; when the roster assigned to this Court was Second Appeals.

Matter was therefore placed before Hon'ble the Chief Justice for permission for listing of the matter in the first half. After permission of Hon'ble the Chief Justice, matter was listed on 1.10.2021 on priority basis in the first half for consideration. The other two cases, bearing Cr. Misc. No. 29711 of 2021 and Cr. Misc. No. 54801 of 2021, were also similarly listed for consideration.

The petitioner's counsel on that day submitted that he would be placing on record the present status of Cr. Misc. No. 5968/2021. Present status has been submitted by way of supplementary affidavit.



Petitioner seeks bail in connection with Bodhgaya P.S. Case No. 210 of 2020 registered under Sections 272, 273 and 34 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Amendment Act, 2016.

It is submitted that the petitioner was petitioner no. 2 in Cr. Misc. No. 5968/2021 co-accused Chandan was petitioner no. 1. While the said Cr. Misc. No. 5968/2021 for grant of anticipatory bail was pending for consideration before this Court, the petitioner came to be arrested on 14.4.2021. Much after the petitioner's arrest, that is on 20.7.2021, the said application for grant of anticipatory bail was allowed by coordinate bench of this Court. The petitioner no. 1 in the said case availed benefit of the order of anticipatory bail. The petitioner, in view of his arrest during pendency of the anticipatory bail application, was not in a position to avail benefit of the said order. Under such circumstances this application has been filed under Section 439 Cr.P.C. It is further submitted that there is recovery of total 1179 litres illicit liquor from a Tata Magic vehicle. The petitioner is stated to be owner of the vehicle and has been in custody now since 14.4.2021. It is submitted that he has no criminal antecedent and even as per



the prosecution case, he was not present at the time and place of recovery nor there is any recovery from his possession. Petitioner was totally ignorant of carriage of illicit liquor by the driver so the responsibility is completely on the driver.

Learned APP has submitted that the petitioner cannot deny his liability.

Considering the rival submissions as also the facts and circumstances of the case, this Court for the purposes of grant of bail is inclined to accept the submissions advanced by the petitioner's counsel. Prayer for bail of the petitioner is allowed. Let the petitioner above named be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Additional Sessions Judge IInd -cum- Special Judge, Excise Act, Gaya in Bodhgaya P.S. Case No. 210 of 2020, subject to the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.



(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

In view of urgency on account of the examination which is to commence from 7.10.2021, order be communicated without any delay.

(Madhuresh Prasad, J)

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