

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.269 of 2021**

Arising Out of PS. Case No.-227 Year-2020 Thana- BAGHA District- West Champaran

Om Prakash Pasi, aged about 26 years, Gender (Male), Son of Shankar Pasi, resident of village- Nayagaon, Ward No. 10, Rampur, Naraipur, P.S.- Laukariya, District- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sanjeev Kumar Shrivastava, Advocate
For the State	:	Mr. Md. Shakir Ahmad, APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

Date : 05-10-2021

The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the petitioner, which was allowed.

2. Heard Mr. Sanjeev Kumar Shrivastava, learned counsel for the petitioner and Mr. Md. Shakir Ahmad, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioner apprehends arrest in connection with Bagha Patkhauli PS Case No. 227 of 2020 dated 17.04.2020, instituted under Sections 272, 273 and 414 of the Indian Penal Code and 30(a) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the ‘Act’).

4. As per the allegation, when the police intercepted



two motorcycles, one person managed to flee away under the cover of darkness and two persons were caught and from the bike of Lal Babu Sharma, eleven litres of countrymade liquor was recovered and from the bike of Sinhasan Pasi, twelve litres of countrymade liquor was recovered. Sinhasan Pasi has confessed that the person who ran away was the petitioner, being his brother.

5. Learned counsel for the petitioner submitted that the so-called confession before the police is inadmissible in law and further, that the allegation is that the petitioner had run away under the cover of darkness, which is also falsified from the fact that in the complaint itself it has been stated that the persons riding on the bike started running away after leaving the motorcycles and two of them were caught and one managed to run away. Learned counsel submitted that no offence can be made out under the Act against the petitioner for the reason that admittedly, the motorcycle did not belong to him from which recovery has been made and it was not from his possession. Further, it was submitted that the petitioner has no criminal antecedent.

6. Learned APP submitted that the brother of the petitioner has taken his name as the person who had fled away.



7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in view of there being only confessional statement of co-accused and the motorcycles from which recovery has been effected not belonging to the petitioner and he having no criminal antecedent, the Court finds that a case for grant of pre-arrest bail has been made out.

8. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, Excise, Bettiah, West Champaran, in Bagha Patkhauri PS Case No. 227 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further (i) that one of the bailors shall be a close relative of the petitioner, (ii) that the petitioner and the bailors shall execute bond with regard to good behaviour of the petitioner, and (iii) that the petitioner shall also give an undertaking to the Court that he shall not indulge in any illegal/criminal activity, act in violation of any law/statutory provisions, tamper with the evidence or influence the witnesses. Any violation of the terms and



conditions of the bonds or the undertaking shall lead to cancellation of his bail bonds. The petitioner shall cooperate in the case and be present before the Court on each and every date. Failure to cooperate or being absent on two consecutive dates, without sufficient cause, shall also lead to cancellation of his bail bonds.

9. It shall also be open for the prosecution to bring any violation of the foregoing conditions by the petitioner, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner.

10. The petition stands disposed of in the aforementioned terms.

(Ahsanuddin Amanullah, J)

J. Alam/-

AFR/NAFR	
U	
T	

