

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5101 of 2021

Arising Out of PS. Case No.-248 Year-2020 Thana- NAUGACHIA District- Bhagalpur

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BINIT KUMAR @ BINIT KUMAR CHOUDHARY, S/o Jai Prakash Choudhary @ Ino Choudhary R/o village- Tetri, P.S.- Naugachiya, District- Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anupa Nand Jha

For the Opposite Party/s : Mr. APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 17-09-2021 Heard Mr. Anupa Nand Jha, learned advocate for the petitioner and Mr. Ram Priya Sharan Singh, learned APP for the State.

The petitioner seeks bail in anticipation of his arrest in connection with Naugachiya P. S. Case No. 248 of 2020, dated 12.08.2020, instituted for the offences under Section 30(a) and 38(i) of the Bihar Prohibition and Excise Act, 2016.

Though there is recovery of liquor from the so called house of the petitioner but it has submitted that the house has been abandoned and the petitioner no



longer resides there.

It has specifically been stated by the learned advocate for the petitioner that the house fell in the share of another agnates in the partition and it is now being used as a store house during village functions. Nobody resides in the aforesaid house.

Thus, for all practical purposes, it has been submitted that the house earlier belonged to the petitioner but with the partition of the property, the same has gone to another co-sharer and the house is actually an abandoned building.

This becomes evident from the fact that when raid was conducted, there were no entry or exit doors in the house.

The petitioner does not have criminal antecedents.

On these grounds, it has been urged that the offence under the Excise Act cannot at all be said to have been made out against the petitioner.



Regard being had to the afore-stated facts, the petitioner, above-named, is directed to be released on bail, in the event of his arrest or surrender before the court below within a period of eight weeks from the date of receipt / production of a copy of this order, on his furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned 2nd Additional Judge – cum – Special Judge of Excise Act, Bhagalpur, in connection with Naugachiya P. S. Case No. 248 of 2020, subject to the conditions as laid down under Section 438 (2) Cr.P.C.

The application stands allowed.

(Ashutosh Kumar, J)

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