

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5290 of 2022

Arising Out of PS. Case No.-161 Year-2021 Thana- BHAGALPUR RAIL P.S. District-
Bhagalpur

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Niraj Kumar Son of Ajay Mandal Resident of Village - Sirary, P.S.- Bounsi,
Distt.- Banka.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajive Ranjan Singh, Advocate.

For the Opposite Party/s : Mr. Asha Kumari, APP.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 28-06-2022 Learned counsel for the petitioner is permitted to
remove defect(s), as pointed out by the office, if any, within a
period of four weeks from today.

Heard Mr. Rajive Ranjan Singh, learned counsel for
the petitioner as well as learned Additional Public Prosecutor for
the State.

The application for grant of bail to the petitioner,
above named, who has been made accused and put behind the
bar in connection with Rail (Bhagalpur) P. S. Case No. 161 of
2021 registered for the offences punishable under Section 30 (a)
of the Bihar Prohibition and Excise Act, 2018.

As per the prosecution case, it is alleged that on a
secret information, while the search was being made in train no.
03445, two persons tried to flee away, who were, later on,
apprehended. It is further alleged that from the aforesaid train
altogether 357 litres country-made liquor was recovered.



Learned counsel appearing on behalf of the petitioner submitted that the petitioner was bona fide passenger of the train and he has no concern with the alleged recovery but only because of some altercation took place with the informant, his name has been implicated in this case. It is further submitted that the recovery has not been made from the conscious possession of this petitioner and moreover, there is no compliance of the provision prescribed under Section 100 Cr.P.C.. It is also submitted that this petitioner having fair antecedent and he is in custody since 21.12.2021, though the investigation of the crime has already been completed and the charge-sheet has been submitted.

On the other hand, learned APP for the State opposes the bail application and submits that this petitioner was apprehended by the Police while he was fleeing away from the place of occurrence.

Having considered the submissions made on behalf of the parties and taking into account the fact that the alleged recovery has not been made from the conscious possession of this petitioner and moreover, the petitioner having fair antecedent and is in custody since 21.12.2021, though the investigation of the crime has already been concluded and the charge-sheet has been submitted, let the petitioner, above



named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-II-cum-Special Judge (Excise Act), Bhagalpur in connection with Rail (Bhagalpur) P. S. Case No. 161 of 2021, subject to the condition that one of the bailors will be the close relative of the petitioner with further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the trial.
- (ii) He will remain present on each and every date of trial till disposal of the case.
- (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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