

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.10241 of 2022**

Arising Out of PS. Case No.-246 Year-2019 Thana- JANDAHA District- Vaishali

RAJESH SAHANI @ RAJESH SAHNI S/o Musafir Sahani R/o village-  
Mahipura, P.S.- Jandaha, District- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Ravish Mishra  
For the Opposite Party/s : Mr.Kalyan Shankar

**CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH**  
**ORAL ORDER**

2      06-07-2022                      The learned counsel for the petitioner is directed to  
  
remove all the defects pointed out by the Stamp Reporter within one  
  
month.

Heard learned counsel for the petitioner and the State.

Petitioner seeks regular bail in a case registered for the  
  
offence punishable under sections 30(a),38(i), 41(i) of Bihar  
  
Prohibition and Excise Act and section 414 IPC.

Allegedly, 2969 liters and 777.6 liters of foreign liquor  
  
were recovered from a pickup van and truck and as per prosecution  
  
petitioner and other accused persons were indulged in smuggling  
  
alleged wine.

The main submissions advanced by the learned counsel  
  
for the petitioner are that petitioner is neither driver nor owner of the  
  
alleged vehicles from which alleged wine is alleged to have been



recovered .Petitioner has one antecedent in which he is on bail and he was not arrested at the spot and alleged wine was not recovered from his conscious possession and two co-accused persons, namely,Binod Rai and Naresh Sahni carrying similar allegation have been granted bail by different benches of this court vide orders passed in Cr. Misc. no. 23440 of 2021 and Cr. Misc. no. 19974 of 2020 and case of the petitioner stands on similar footing. Further submission is that investigation has been completed in respect of the petitioner and he has been languishing in jail since 09.11.2021 and provision of section 100 Cr.P.C was not complied by the police while making alleged search and seizure.

Learned APP opposes the prayer for bail.

Heard both sides and perused the FIR. As per allegation huge quantity of wine was recovered from two vehicles and petitioner and some co-accused persons are stated to have managed to flee at the time of recovery of alleged wine. Amongst the said co-accused persons two co-accused Binod Rai and Naresh Sahni have been granted bail by coordinate bench of this court and allegation appearing against the petitioner is also of similar nature and he has spent long period in custody and according to the petitioner's counsel investigation has been completed in respect of the petitioner.

Considering these facts, in my view, a lenient approach may be taken in respect of the petitioner. Let the 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 the Exclusive Special Excise Court No. I-cum- Addl. Sessions Judge, Vaishali at Hajipur in Jandaha P.S Case No. 246 of 2019 on the following conditions:-

(1) Petitioner shall co-operate 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.

(3) One of the bailers shall be close relative of the petitioner who has sworn affidavit in this miscellaneous petition.

The court below will verify the criminal antecedent of the petitioner but acceptance of bail bond will not be delayed on account of process of verification of the said criminal antecedent. If any criminal antecedent other than of Jandaha P.S Case No. 40 of 2019 of the petitioner is found then the court below shall take serious action against him for cancellation of his bail bond.

**(Shailendra Singh, J)**

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