

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10065 of 2022**

Arising Out of PS. Case No.-218 Year-2020 Thana- NAUGACHIA District- Bhagalpur

MD. ZAHIR HUSAIN @ MD. ZAKIR HUSAIN Son of Tamarat Hussain
Resident of Village- Pakra, P.S.- Naugachhia, District - Bhagalpur.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Aditya Nath Pandey, Advocate
For the Opposite Party/s : Mr. Nityanand, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER**

2 24-06-2022 Heard learned counsel appearing on behalf of the
petitioner and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioner seeks bail in connection with
Naugachhia P.S. Case No. 218 of 2020 registered for the offence
under Section 30(a) and 38(i) of the Bihar Prohibition and
Excise Act, 2018.

The accused/petitioner is named in the F.I.R. and is in
custody since 26.09.2021.

The allegation against the petitioner is to be engaged
in illegal business of illicit liquor, wherein, recovery of 396.75
litres of illicit country made foreign liquor has been made.

Learned counsel appearing on behalf of the petitioner



submitted that as per the seizure list, the alleged recovery of illicit liquor has been made from Orchard i.e. open place, it cannot be said that the recovery has been made from the conscious physical possession of the petitioner. It has further been submitted that the petitioner is a man of clean antecedent and furthermore, investigation has been completed for which charge-sheet has already been submitted in this case, as such, there is no chance of tampering with the evidence.

Learned APP, while opposing the prayer of bail, fairly conceded the fact that alleged recovery has been made from the open place.

Considering the facts and circumstances as mentioned above, as recovery is not made from the conscious physical possession of the petitioner, who is man of clean antecedent coupled with the fact that charge-sheet has already been submitted in this case, let the petitioner, above named, is directed to be released on bail in connection with Naugachhia P.S. Case No. 218 of 2020 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned IInd Additional District and Sessions Judge-cum-Special Judge, Excise Act, Bhagalpur, subject to the following conditions:



“(i) Accused/Petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner duly supported by the documents.

(iii) That one of the bailors shall be Zafar Hussain, who is the son of the petitioner and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

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