

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15883 of 2022**

Arising Out of PS. Case No.-293 Year-2021 Thana- PHULWARIYA District- Gopalganj

NAGENDRA YADAV SON OF BAIRISTAR YADAV @ BAYRISTAOR
YADAV RESIDENT OF VILLAGE- MAJIRAWA KALA, TOLA-
GHUTHNAHA, P.S.- FULWARIYA, DISTRICT- GOPALGANJ

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vyas Kumar Mishra

For the Opposite Party/s : Mr. Mritunjay Kumar Nirala

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

5 25-08-2022 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 Fulwariya
P.S. Case No. 293 of 2021 registered for the offence under
Section 30(a) of the Bihar Prohibition and Excise Act, 2018.

The accused/petitioner is named in the F.I.R. and is in
custody since 01.12.2021.

The allegation against the petitioner is to be engaged
in illegal trade of illicit liquor, where, there is recovery of 69.2
litres of illicit country made liquor.

Learned counsel appearing on behalf of the petitioner



submitted that petitioner was not apprehended on spot and admittedly, the alleged recovery of illicit liquor was not made from the conscious physical possession of the petitioner. It is also submitted that the petitioner is identified as one of the user of alleged 'Tempo', from where, recovery of illicit liquor was made. It is also submitted that the implication of the petitioner in present case, is due to criminal antecedents, as petitioner is involved in 18 other cases, where, he is on bail in 16 cases and in maximum of the cases, his name surfaced on the basis of disclosure as made in the present case. While concluding the argument, it is submitted that investigation of this case has been completed, for which, charge-sheet has already been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, while opposing the prayer of bail, fairly conceded the fact that recovery of illicit liquor was not made from physical possession of the petitioner.

Considering the facts and circumstances as mentioned above, as the alleged recovery of illicit liquor was not made from the conscious physical possession of the petitioner coupled with the fact that charge-sheet has already been submitted, let the petitioner, above named, is directed to be released on bail in connection with Fulwariya P.S. Case No. 293 of 2021 on



furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-II-cum-Special Excise, Gopalganj/concerned court, subject to the following conditions:

“(i) That petitioner shall not involve in the similar nature of offence till the conclusion of trial, failing which, the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioner.

(ii) 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 deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

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