

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17074 of 2022**

Arising Out of PS. Case No.-68 Year-2019 Thana- WAJIRGANJ District- Gaya

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NILESH KUMAR @ NITESH KUMAR @ NIKKI SON OF UPENDRA
SINGH R/O VILLAGE- AROO, P.S.- WAZIRGANJ, DISTRICT- GAYA

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Bijay Kumar Pathak

For the Opposite Party/s : Mr.Anant Kumar 1

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**CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER**

2 15-07-2022 Let the defect(s), as pointed out by the office, be
removed within a period of four weeks from today.

Heard learned counsel for the petitioner and
learned A.P.P. for the State.

The petitioner seeks bail in connection with
Wazirganj P.S. Case No. 68 of 2019 registered for the offences
punishable under Sections 30(a) of the Bihar Prohibition and
Excise Act, 2016.

As per prosecution case, 98.5 litre foreign liquor
was recovered from western side of the pokhar.

Learned counsel for the petitioner submits that
petitioner is in custody since 26.12.2021. Petitioner bears
criminal antecedent of one case. Charge sheet has already been
submitted in the case and there is no likelihood of tampering



with the prosecution evidence. Learned counsel further submits that petitioner is not named in the F.I.R. Nothing incriminating article has been recovered either from the conscious possession of the petitioner or from the house of the petitioner. Learned counsel further submits that acting on information the police searched at open land which is situated towards the western side of the Pokhar far away from the village and alleged recovery has been shown from a field but the fact remains that the alleged place of occurrence from where recovery has been shown is not the land of the petitioner. Learned counsel further submits that F.I.R. was lodged against unknown and name of this petitioner was disclosed by local Chowkidar as mentioned in impugned order. Petitioner has been falsely implicated in this case and he is not apprehended on the spot.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

Considering the facts and circumstances of the case as well as period of custody, nature of allegation, charge-sheet has already been submitted and there is no likelihood of tampering with the prosecution evidence, and also taking into consideration the material available on record, let the petitioner above named be released on bail after framing of charge on



furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Excise Court No. 1, Gaya in connection with Wazirganj P.S. Case No. 68 of 2019, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission would be a ground for cancellation of bail by the learned Trial court itself.

(iii) 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.

(Alok Kumar Pandey, J)

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