

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.18840 of 2022**

Arising Out of PS. Case No.-113 Year-2021 Thana- BAIKUNTHPUR District- Gopalganj

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Baban Rai S/o Harinarayan Ray Resident of Village- Faizullahpur, P.S.-  
Baikunthpur, District- Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Shailendra Kumar Dwivedi, Advocate  
For the Opposite Party/s : Ms. Pronoti Singh, APP

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

2      15-07-2022                      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  
Baikunthpur P.S. No. 113 of 2021 registered for the offence  
under Sections 30 (a) and 41 of the Bihar Prohibition and  
Excise Amendment Act, 2018.

The accused/petitioner is named in the F.I.R. and is in  
custody since 08.02.2022.

The allegation against the petitioner is to involve in



illegal business of illicit liquor, where 440 liters of country made liquor was recovered from partly constructed house and 435 liters of country made liquor was recovered from wheat field.

Learned counsel appearing on behalf of the petitioner submitted that recovery has been made from two different places one is from the partly constructed house of the co-accused, namely, Rajan Singh and another from an open place i.e., wheat field, as such, it cannot be said from the conscious physical possession of the petitioner. It is submitted that similarly situated co-accused person has already been granted bail by one of the learned Co-ordinate Bench of this Court through Cr. Misc. No. 59743 of 2021 dated 10.12.2021. It is further submitted that there is no compliance of Section 100 of Cr.P.C. While concluding the argument, it is submitted that investigation in this case is complete for which chargesheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP appearing on behalf of the State, while opposing the prayer of bail, fairly conceded that recovery is from partly constructed house of co-accused and from open field.



Considering the facts and circumstances as mentioned above, as recovery is not from the conscious physical possession of the petitioner coupled with the fact that chargesheet has already been submitted, let the petitioner, above named, is directed to be released on bail in connection with Baikunthpur P.S. No. 113 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 Sessions Judge-II-cum-Special Judge, Excise, Gopalganj/concerned Court, subject to the following conditions:

“(i) That accused/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 Atma Ray who is the elder brother of the petitioner and deponent of the present bail petition.”

**(Chandra Shekhar Jha, J)**

Ankit/-  
Shweta/-

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