

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 39742 of 2021**

Arising Out of PS. Case No.-49 Year-2020 Thana- JOGBANI District- Araria

CHANDAN KUMAR YADAV Son of Nageshwar Yadav Resident of Village
- Kocheli, Dagaru, Barsaoi, P.S.- Dagaru, District - Purnia.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr Md Helal Ahmad, Advocate

For the Opposite Party/s : Mr Kalyan Shankar, APP

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

2 **31-05-2022** Heard learned counsel for the petitioner and learned
Additional Public Prosecutor (for brevity, *APP*) appearing for
the State of Bihar.

The petitioner apprehends arrest in Jogbani Police
Station (for brevity, *PS*) Case No 49 of 2020 dated 16.02.2020
registered for the offence punishable under Sections 406, 420,
120B of Indian Penal Code.

The informant has alleged non-delivery of stock
loaded on the truck which has left his Transport Company for
delivery with 1250 tins of Soybean Refined Oil. As per the
allegation made in the First Information Report (for brevity,
FIR), petitioner is stated to be a relative of the owner of the
truck in question.



Learned counsel for the petitioner submits that the petitioner is neither owner nor driver of the truck. Even as per allegation made in the FIR, his implication is only by sketchy allegation that he happens to be relative of the owner of the truck on which the informant allegedly loaded 1250 tins of Soybean Refined Oil. Submission is that the FIR itself does not make out any allegation against the petitioner. Further submission is that from perusal of the seizure memo, it is obvious that the truck in question bearing Registration No WB 59A 7827 has been recovered with the entire consignment of 1250 tins intact on the truck in question. Submission is that the petitioner has suffered one prior false implication under the Bihar Prohibition and Excise Act in Dagarua PS Case No 16 of 2019.

The learned APP has opposed the prayer for bail referring to the order passed by the Sessions Judge dated 10.03.2021 rejecting the prayer for anticipatory bail of the petitioner. It is submitted that material has come in the case diary that the petitioner was caretaker of the truck in question.

Considering the rival submissions, the fact that the truck has been recovered with the entire consignment intact and that the FIR as well as investigation does not suggest that the



petitioner is owner or even driver of the truck in question and apart from the allegation that he was a caretaker, there is nothing to connect the petitioner with the alleged offence, this Court, for the purposes of grant of bail, is, thus, inclined to accept the submissions advanced by the petitioner's counsel. Prayer for bail is allowed. Let the petitioner, above named, in the event of his arrest or surrender within four weeks from today, be released on bail on his furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Additional Chief Judicial Magistrate IV, Araria in Jogbani PS Case No 49 of 2020 subject to the conditions as laid down under Section 438 (2) of Criminal Procedure Code and also the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

Learned counsel for the petitioner is expected to



honour his undertaking given in the instant proceedings today
for depositing requisite Court fee and removing the defect (s), as
pointed out, when called upon to do so.

(Madhuresh Prasad, J)

M.E.H./-

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