

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28889 of 2022

Arising Out of PS. Case No.-34 Year-2020 Thana- GOVERNMENT OFFICIAL COMP.
District- Samastipur

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Ganga Vishnu Ray Son Of Sonelal Ray R/O Village- Saidpur Jahid, P.S.-
Ujiyarpur, District- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anuj Kumar, Advocate

For the Opposite Party/s : Mr. Arvind Kumar Pandey, A.P.P

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CORAM: HONOURABLE MR. JUSTICE KHATIM REZA

ORAL ORDER

2 06-08-2022 Heard learned counsel for the petitioner and learned A.P.P
for the State.

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

The petitioner seeks bail in connection with a case
registered for the offences punishable under Section 30(a) of
Bihar Prohibition and Excise Act.

Allegation is of recovery of 306 litres liquor from the roof
of the house of the petitioner.

Learned counsel for the petitioner submits that the
petitioner is innocent and he has no concern with the seized
illicit liquor. It is submitted that mandatory provision of Sub-
section 2 of Section 74 and Section 82 of the Bihar Prohibition



and Excise Act with respect to search and seizure have not been followed. Further, it is submitted that the petitioner used to live in joint ancestral property and recovery has been made in his absence. It is submitted that the seizure list has not prepared in presence of independent witnesses, which violate the mandate of Section 100(4) of the Criminal Procedure Code. It is further submitted that the petitioner is in custody since 25.04.2022 and has antecedent of three cases.

Learned APP for the State opposes the prayer for bail.

Considering the aforesaid facts and circumstances as well as the fact that petitioner has got criminal antecedent of similar nature of cases, I am not inclined to grant bail to the petitioner and same is, accordingly, rejected. However, the learned court below, where the case is pending, is directed to release the petitioner on bail, **after framing of the charge**, in connection with Excise Case No. 34 of 2020, in addition to subject to the following conditions:-

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

(2) One of the bailors will be his own blood relation,



preferably father, mother, brother, sister and or his wife.

(3) The bailor shall also state on affidavit that he will inform the court concerned if the petitioner is made accused in any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on ground of misuse.

(4) 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.

(5) The petitioner shall appear before the Police Station of his local area in the first week of each month till the disposal of the present case.

(Khatim Reza, J)

Gaurav Kumar/-

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