

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32015 of 2022

Arising Out of PS. Case No.-126 Year-2022 Thana- GOPALGANJ TOWN District-
Gopalganj

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Vishal Kumar, S/o Osihar Bhagat, Resident of Village- Karariya, Koiri Tola,
P.S.- Gopalganj, District- Gopalganj, Bihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Indrajeet Bhushan, Advocate
For the Opposite Party/s : Mrs. Sucheta Yadav, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 26-08-2022 Learned counsel for the petitioner is permitted to

remove the defect(s), as pointed out by the office, within a

period of four weeks from today.

Heard Mr. Indrajeet Bhushan, learned counsel for the
petitioner and learned APP for the State through video
conference.

The petitioner seeks regular bail, who is in custody in
connection with Gopalganj (Town) P.S. Case No. 126 of 2022
registered for the offence punishable under Section 30 (a)/41(i)
of the Bihar Prohibition and Excise Act, 2016.

As per prosecution case, it is alleged that the police on
a secret information raided the house of the petitioner and on
search 53.2 litres of country made liquor was recovered.



Learned counsel appearing on behalf of the petitioner submits that the petitioner was neither arrested at the spot nor any incriminating material has been recovered from his conscious or constructive possession. It is submitted that the alleged recovery has been made from a newly constructed house wherein construction work was going on and it was easily accessible to all. It is next submitted that only on account of past criminal antecedent of the petitioner, his name has been implicated in this case on mere suspicion, though he is already in bail in all other three cases mentioned in para. 3 of the bail application. It is next submitted that the name of the petitioner has been disclosed by the local Chaukidar and save and except the past criminal antecedent and disclosure made by the local Chaukidar, there is no material which suggests the involvement of the petitioner. It is further submitted that apart from the other infirmities in preparation of the seizure list, there is no compliance of Section 100 of the Cr.P.C and moreover the petitioner is in custody since 10.03.2022 and the investigation of the crime is completed and charge-sheet has been submitted.

On the other hand learned APP for the State opposes the bail application.

Having regard to the submissions made on behalf of



the parties and considering the fact that the petitioner was neither arrested at the spot nor any incriminating material has been recovered and moreover the alleged recovery has been made from a newly constructed house, which is accessible to all and the petitioner is in custody since 10.03.2022, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-II-cum- Special Excise Court No.-I, Gopalganj in connection with Gopalganj (Town) P.S. Case No. 126 of 2022, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain physically present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.



(v) The court below shall verify the criminal antecedent of the petitioner and in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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