

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41733 of 2021**

Arising Out of PS. Case No.-177 Year-2021 Thana- FATEHPUR District- Gaya

SANJAY KUMAR YADAV Son of Late Kuldip Yadav Resident of Village-
Rangaini, P.S.- Fatehpur, District- Gaya.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Jay Prakash Singh

For the Opposite Party/s : Mr.Surendra Prasad Singh

**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER**

2 04-01-2022 The instant case has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

Heard the learned counsel for the petitioner and the learned APP for the State.

The petitioner seeks regular bail in connection with Fatehpur P.S. Case No. 177/2021, registered for the offence punishable under Sections 30(a) and 32(2) of the Bihar Prohibition and Excise Act, 2016..

The allegation is regarding recovery of 104



liters of illicit country made wine from a motorcycle and the petitioner is stated to be driving the same.

The learned counsel for the petitioner has submitted that the petitioner is innocent and he has been falsely implicated in the present case. The learned counsel for the petitioner has further submitted that though the petitioner is an accused in one other criminal case, but he is on bail in the said case. The petitioner is stated to be languishing in custody since 7.6.2021. It is further submitted that the seizure list would show that the police itself is the witness and no independent witnesses have signed the seizure list, hence, there is no compliance of Section 100 Cr.P.C. while preparing the seizure list.

Per contra, the learned APP for the State has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioner and taking into account the materials



available on record as also considering the fact that the seizure list has not been prepared in the present case in presence of independent witnesses and the provisions contained in Section 100 Cr.P.C. have not been complied with resulting in the seizure being vitiated in the eyes of law, apart from considering the period of incarceration of the petitioner herein, I deem it fit and proper to direct for release of the petitioner on regular bail.

Accordingly, the above named petitioner is directed to be enlarged on bail on furnishing bail bonds 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, Gaya in connection with Fatehpur P.S. Case No. 177/2021.

(Mohit Kumar Shah, J)

Ajay/-

U		T	
---	--	---	--

