

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.41028 of 2022**

Arising Out of PS. Case No.-283 Year-2020 Thana- BARAULI District- Gopalganj

Upendra Mahto @ Upendera Mahato @ Upendra Mahato Son Of Parma Mahato R/O Village- Rupanchhap, P.S.- Barauli, District- Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Lokesh Kumar Singh, Advocate.

For the Opposite Party/s : Mr. Suman Kumari Singh, APP.

**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR**  
**ORAL ORDER**

2      23-09-2022      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. Lokesh Kumar Singh, learned counsel for the petitioner and learned APP for the State, through video conferencing.

The petitioner seeks regular bail, who is in custody in connection with Barauli P.S. Case No. 283 of 2020, for the offences punishable under Section 30(a) of the Bihar Prohibition of Excise Amendment Act, 2018.

The police in course of patrolling duty, on a secret information that the petitioner is indulging in selling of wine, raided the house of the petitioner, however, nearby the place of the house of the petitioner 5.00 liter country made Chulai liquor



was recovered, which was kept in a wooden store. It is further alleged that petitioner managed to flee away.

It is submitted by the learned counsel appearing on behalf of the petitioner that the petitioner was neither apprehended at the spot nor any incriminating material has been recovered from his person and possession. He further submitted that from the FIR, it is evident that the alleged recovery has been made from a wooden store, in front of the house of the petitioner, which is accessible to all and not within the control of the petitioner. He also submitted that in fact only on account of the past criminal antecedent, his name has been implicated in this case, though he is already on bail in all other cases. He last submitted that there is no compliance of Section 100 of Cr.P.C., apart from defiance of Sections 81 and 82 of the Bihar Prohibition and Excise Act and now the petitioner is in custody since 28.01.2022, though the investigation of the crime is already completed and charge-sheet has been submitted.

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

Regard being had to the submissions made on behalf of the parties and considering the fact that the petitioner was neither apprehended at the spot nor any incriminating material



has been recovered and the alleged recovery has been made from an open place and the petitioner is in custody since 28.01.2022, let the petitioner, named above, be released 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-2<sup>nd</sup>-cum- Special Excise Court No.-1, Gopalganj, in connection with Barauli P.S. Case No. 283 of 2020, 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 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.

**(Harish Kumar, J)**

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