

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40588 of 2022

Arising Out of PS. Case No.-221 Year-2022 Thana- GARKHA District- Saran

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Bijendra Chaubey S/O Late Shankar Chaubey R/O Village- Fulwaria, P.S.-
Garkha, District- Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shyameshwar Kumar Singh, Adv
For the Opposite Party/s : Mr. Md. Shakir Ahmad, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 23-09-2022 Let the defects, if any, be removed within four
weeks from today.

Heard learned counsel for the petitioner as well as
learned Additional Public Prosecutor for the State through
video conferencing.

Petitioner seeks bail in a case registered in
connection with Garkha P.S. Case No. 221 of 2022 for the
offences punishable under Sections 30(a), 37(c) of the Bihar
Excise (Prohibition) Amendment Act.

The police on a secret information with regard to
selling of illicit liquor in Fulwaria Chaur raided the place
of occurrence, however on noticing the police party six
persons succeeded in fleeing away and this petitioner was
apprehended at the spot. On search total 110 liters of



country made liquor was recovered from two jute bags.

Learned counsel for the petitioner submits that from the FIR, it would be evident that the alleged recovery has been made from Fulwaria Chaur, which is an open place accessible to all and the petitioner cannot be held responsible for the same. He submits that only because of one past criminal antecedent, the name of the petitioner has been implicated in this case. It is further submitted that from the seizure list, it would be evident that the alleged recovery has not been made from the possession of the petitioner as neither the signature of the petitioner has been obtained nor the copy of which has been handed over to him, apart from the violation of section 100(4) of the Criminal Procedure Code. He last submits that the petitioner is in custody since 22.04.2022 and the investigation of the crime is already completed.

On the other hand, learned counsel for the State opposed the bail application and submits that petitioner has involved in one another case.

Regard being had to the submission made on behalf of the parties and considering the fact that the alleged



recovery has been made from Fulwaria Chaur which is an open place accessible to all and there is no signature of the petitioner on the seizure list and he is in custody since 22.04.2022, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge- II – cum 1st Exclusive Special Judge, Excise, Saran in connection with Garkha P.S.Case No. 221 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 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 step for cancelling of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above- mentioned order shall not be delayed for purpose of or in the name of verification.

(Harish Kumar, J)

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