

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.57368 of 2021**

Arising Out of PS. Case No.-17 Year-2020 Thana- JADOPUR District- Gopalganj

=====

BUDHAN SAHNI @ BUDHAN SAHANI Son of Sukdev Sahani @ Sukhdev
Sahni Resident of Village- Balua Tola, P.S.- Jadopur, District- Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

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

For the Opposite Party/s : Mr.Damodar Prasad Tiwary, APP

=====

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

4 12-01-2022 Heard learned counsel for the petitioner and learned
APP for the State.

This case seems to be an apt example of the misuse of
the provisions of the Bihar Prohibition and Excise Act, 2016 by
the police officials who are armed with draconian power to take
away anybody's life and liberty in the name of his involvement
in either consumption or possession of the liquor.

The petitioner Budhan Sahni was in judicial custody
in connection with Jadopur P.S. Case No.03/2020 when the
present case being Jadopur P.S. Case No.17 of 2020 was lodged
by one Om Prakash Ram, sub-inspector of police posted in
Jadopur police station. In his self-statement giving rise to this
case on 29.01.2020 it is alleged that at about 6.00 pm when he



was engaged in checking of the vehicles one person came on a motorcycle loaded with one plastic bag and as soon as he found the police party checking the vehicles he left the motorcycle and started fleeing away. The informant tried to catch hold of him but the said person was successful in fleeing away taking advantage of the bushes. Nobody became ready to be an independent witness to the seizure whereafter taking two of the police personnel involved in the patrolling the seizure list was prepared. It is then alleged that local chowkidar and people present there disclosed the name of the said person who had fled away as Budhan Sahani (this petitioner).

The fact that Budhan Sahani was in judicial custody since 3rd of January, 2020 itself was neither brought to the notice of the learned court below nor to this Court by either parties when the prayer for bail of this petitioner was earlier rejected vide order dated 03.08.2021 in Cr.Misc.14620 of 2021 (Annexure-1). When this fact was brought to the notice of this Court by learned counsel for the petitioner in the present proceeding on 17.11.2021, this Court called for a report from the Superintendent of Police, Gopalganj on the averment of the petitioner that he had surrendered and went into judicial custody on 21.01.2020 itself in which he was granted bail on



08.01.2021.

The report of the Superintendent of Police, Gopalganj as contained in letter no.1146 dated 20.12.2021 has been placed on the record. According to this report, the statement of the petitioner has been found correct. In paragraph '3' of the report, the Superintendent of Police, Gopalganj admits that the allegations against this petitioner seem not correct as he was in judicial custody since 21.01.2020. The Superintendent of Police has also informed this Court that show cause notices have been issued to the sub-inspector of police Om Prakash Ram and two local chowkidars 2/5 Babudin Akhtar and 1/5 Sukhlal Sahani and also to the I.O. sub-inspector of police Mithilesh Kumar Singh.

Having noticed the aforesaid contents of the report, this Court directs release of the petitioner on bail forthwith on his personal bond only. The court below shall issue the release order in this case immediately upon communication of this order.

Being a constitutional court, since in this proceeding, this court has noticed that the petitioner was made accused by falsely alleging that he was identified by local persons and chowkidars and due to this F.I.R., the petitioner suffered a



substantial period in prison, this Court finds it a fit case to call upon the State to show cause as to why an appropriate amount of cost and compensation be not allowed to the petitioner. The issue being connected to the subject matter of present case, this Court is calling upon the State to answer this within two weeks from today.

The Superintendent of Police, Gopalganj shall also make available the further progress report in the action pursuant to the show cause notices issued to the aforesaid police officers and the chowkidars. He will also ensure that the police officer who is involved in lodging of the F.I.R. of this kind and the others to whom the show cause notices have been issued shall not be involved henceforth in carrying on investigation in liquor cases until they are exonerated in the departmental proceedings which are said to have been initiated against them.

List this matter after three weeks i.e. on 02.02.2022 under the same heading for further consideration.

Let this order be communicated to the learned court below forthwith.

(Rajeev Ranjan Prasad, J)

arvind/-

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

Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

