

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62105 of 2021**

Arising Out of PS. Case No.-116 Year-2021 Thana- BAJPATTI District- Sitamarhi

Md. Raj @ Md. Mahboob Raj S/O Md. Barik @ Md. Abdul Barik Sheikh
R/O Village-Madhurapur, P.S-Bajpatti, District-Sitamarhi (BIHAR).

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shankar Kumar

For the Opposite Party/s : Ms. Veena Kumari Jaiswal

**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER**

2 30-05-2022 Heard learned counsel for the petitioner and learned APP
for the State.

At the outset, it is submitted by petitioner's counsel that due to inadvertence, Section 36 has been typed in paragraph 1, whereas the case is only under Section 30(a) of the Bihar Prohibition and Excise Act.

The petitioner's counsel is permitted to omit Section 36 from paragraph 1 during course of the day.

This Court would expect that the petitioner's counsel would honour his undertaking in the instant proceedings regarding supply of requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

Petitioner seeks bail in connection with Bajpatti P.S. Case No. 116 of 2021 registered under Section 30(a) of the Bihar



Prohibition and Excise Act.

87 litres 600 ml *Nepali Saufi Wine* has been recovered from the motorcycle by the roadside and it is alleged that the petitioner has fled away. He has been named by person who is arrested with the illicit liquor.

Learned counsel for the petitioner submits that such implication based on statement of co-accused has no evidentiary value. The petitioner, as per prosecution case, was not arrested from the place and at the time of recovery. He has no criminal antecedents and he is in custody since 23.08.2021.

Learned APP has opposed the prayer for bail.

Considering the rival submissions, clean antecedent of the petitioner, period of custody and the fact that prosecution does not allege any recovery from the petitioner, this Court is inclined to allow the prayer for bail.

Let the petitioner above named be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional District & Sessions Judge-II-Cum-Special Judge Excise Act, Sitamarhi in Bajpatti P.S. Case No. 116 of 2021, subject to the following conditions:-

(i) That one of the bailors will be a close relative of the



petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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