

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.52131 of 2022**

Arising Out of PS. Case No.-40 Year-2022 Thana- BIBHUTIPUR District- Samastipur

Vikash Kumar @ Vikash Rai, Son of Sri Ram Lal Rai, Resident of Ward No.-  
12, Village - Alampur, P.O.- Garhsisai, P.S.- Vidyapatnagar and District -  
Samastipur, Bihar - 848503.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Aditya Prakash Sahay,Advocate

For the Opposite Party/s : Mr.Arun Kumar Pandey,APP

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA**  
**ORAL ORDER**

2      28-09-2022      This petition has been taken up for out of turn hearing on  
mentioning slip being moved on behalf of the petitioner that his  
B.A., Part-III examination is scheduled to be held from  
14.10.2022.

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

Let the defect (s), as pointed out by the office, be  
removed within a period of four weeks from the date of  
resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in  
connection with Bibhutipur P.S. Case No. 40 of 2022 registered  
for the alleged offences under Sections 30(a), 32(2) (3), 36  
41(1) (2) of the Bihar Prohibition and Excise Amendment Act,



2018.

As per prosecution case, recovery of 2525.400 litres of India made foreign liquor was made from a truck, Pick-up van and magic vehicle, which were seized on the basis of secret information received by the police. The petitioner and other co-accused persons were not apprehended from the spot and their name came up in the statement of informer as well as *chowkidar*.

The learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case merely on the basis of information received by the police. The petitioner was not arrested from the spot and nothing incriminating has been recovered from his possession. The vehicles from which recovery has been made do not belong to this petitioner. The petitioner has nothing to do with the other co-accused persons. Other similarly placed co-accused persons have been granted bail by different Coordinate Benches of this court vide order dated 22-04-2022 passed in Cr. Misc. No.18306 of 2022, order dated 06-05-2022 passed in Cr. Misc. No.21988 of 2022 and order dated 31-08-2022 passed in Cr. Misc. No.44195 of 2022. The petitioner is in custody since 04.06.2022 and the charge-sheet has been submitted in this case.



Learned APP opposes the prayer for bail submitting that the petitioner is a habitual offender.

Having regard to the facts and circumstances and submissions made of behalf of the parties and considering the fact that the petitioner was not apprehended from the spot and no recovery has been shown from him and further considering his period of custody and submission of charge-sheet, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise Court 1, Samastipur in connection with Bibhutipur P.S. Case No. 40 of 2022, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions :

- (i) The bail bond of the petitioner will be accepted only after framing of charge, if not already framed.
- (ii) One of the bailors will be a close relative of the petitioner.
- (iii) The petitioner will remain present on each and every date fixed by the court below.
- (iv) In case of absence on three consecutive dates



or in violation of the terms of the bail, the bail  
bond of the petitioner will be liable to be  
cancelled by the court concerned.

**(Arun Kumar Jha, J)**

V.K.Pandey/-

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