

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66687 of 2021**

Arising Out of PS. Case No.-228 Year-2021 Thana- BARAULI District- Gopalganj

Jitendra Prasad, Son of Bilash Bhagat, Resident of Village - Jamomathia, P.S.-
Barauli (Madhopur O.P.), Dist.- Gopalganj, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Indrajeet Bhushan, Advocate

For the Opposite Party/s : Ms.Asha Devi, APP

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

2 01-06-2022 Heard learned counsel for the petitioner and the
learned APP for the State.

The petitioner seeks bail in connection with
Barauli P.S. Case No.228 of 2021 registered for the offence
punishable under Section 30(a) of the Bihar Prohibition and
Excise (Amendment) Act, 2018.

129.600 litres illicit liquor has been recovered
from the petitioner's *Dalan*, as per prosecution case.

Counsel for the petitioner submits that recovery is
from an open place accessible to one and all, for which criminal
liability cannot be fastened on the petitioner. In fact, recovery
has been made from somewhere else and on account of his
antecedents in four cases, as per disclosure made in paragraph 3
of the bail application, petitioner has been implicated in the



instant case. He is in custody since 26.09.2021. Counsel further submits that even as per prosecution case, recovery is not from the petitioner's possession and that investigation is complete.

Learned APP for the State has opposed the prayer for bail.

Considering the rival submissions and having regard to the fact that the prosecution does not attribute recovery from the petitioner's possession, recovery being from an open place, the period of custody as also the fact that the investigation is complete, this Court for the purposes of grant of bail is inclined to accept the submissions advanced by the petitioner's counsel. Prayer for bail of the petitioner is allowed.

Let the petitioner, above named, be released on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned 2nd Additional District & Sessions Judge-cum-Special Judge, Excise, Gopalganj, in connection with Barauli P.S. Case No.228 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.

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

(Madhuresh Prasad, J)

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