

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67356 of 2021**

Arising Out of PS. Case No.-62 Year-2020 Thana- GWALPARA District- Madhepura

Shivchandar Kumar, Son of Satrudhan Mehta Resident of village - Tulsiya,
P.S.- Gawalpara, District - Madhepura.

.. ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dinesh Prasad Verma, Adv.

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

**CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER**

2 16-05-2022 Heard learned counsel for the parties.

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

Let the defect(s), if any, be removed within four
weeks.

The petitioner is in judicial custody in connection
with Excise Case No.307 of 2020 arising out of Gawalpara P.S.
Case No.62 of 2020 instituted under Section 30(a) of Excise
Act.

As per the FIR, the informant S.I. of Police of the
Gawalpara Police Station filed a written report before the
Officer-in-charge of the Gawalpara Police Station stating therein
that when he was engaged in the vehicle checking on



13.05.2020 at about 11.30 along with other police personnel, he saw two persons riding on motorcycle from the Sahpur Santhali. Seeing the police party, they tried to take 'U' turn but with the help of the police personnel caught them with motorcycle no.BR43F9658. They disclosed their names as Vikas Kumar and Birbal Sharma. In the presence of two independent witnesses namely Deo Narayan Sharma and Uday Kumar a search was done whereafter five liters of '*Mahua*'/countrymade liquor was recovered. Further in the plastic bag, 20 piece pouch containing one liter each was also recovered in other polythene bag, 25 piece pouch of 500 ml. each recovered also recovered. On demand, no paper produced by them.

Accordingly, the same were seized. Further allegation is that at about 2.30 pm, a person also came from the Sahpur Santhal on motorcycle and he seeing the police party he tried to return. Police personnel rushed to apprehend him but he left the motorcycle and fled away. One jute bag was also loaded on the motorcycle. In course of search of the jute bag, hundred piece of '*Mahua*' country made liquor of one liter each was recovered. Thus, total 100 liter of liquor recovered from the jute bag in presence of two independent witnesses.

Learned counsel for the petitioner submits that he has



not been arrested from the spot and as such the jute bag that was found near his motorcycle cannot be attributed to him. He further submits that he do not have criminal antecedent and if it is found that he do have criminal antecedent, if this Court grant bail to him the same shall become infructuous. He further submits that he is in jail since 21.09.2021 (as stated in para-15 of the bail application).

Considering the fact that charge sheet has been submitted, the petitioner claim to have no criminal antecedent and he is in jail since 21.09.2021, this Court is inclined to grant him to privilege of bail. However, it is found that he do have criminal antecedent, this bail order shall become infructuous.

Let the petitioner be released on bail on furnishing bail bond of Rs.10,000/-(ten thousand) with two sureties of the like amount each in connection with Excise Case No.307 of 2020 arising out of Gawalpara P.S. Case No.62 of 2020 to the satisfaction of learned Special Judge, Excise Act, Madhepura, subject to following conditions:

(i) one of the bailor should be the family member of the petitioner, who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date



before the Trial court and failure to do so for two consecutive dates without plausible reasons will entail cancellation of his bail by the Trial court itself;

(iii) the petitioner shall desist from committing any criminal offence again failing which the State shall be at liberty to steps for cancellation of his bail bonds.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

Prakash Narayan /-

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