

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68123 of 2021**

Arising Out of PS. Case No.-467 Year-2019 Thana- BRAHMPUR District- Buxar

Rajesh Upadhyay @ Rajesh Kumar Upadhyay, Son of Late Dina Nath Upadhyay Resident of village - Ariaon, P.S.- Krishna Brahm, District - Buxar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sumeet Kumar Singh, Advocate

For the Opposite Party/s : Mrs. Renu Kumari, APP

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

4 18-07-2022 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 Brahampur (Krishna Brahm) P.S. Case No. 467 of 2019 registered for the alleged offences under Section 30 (a) of Bihar Prohibition and Excise Act, 2018.

The prosecution case is that the police received secret information about the petitioner and co-accused persons bringing large consignment of illicit liquor and one Scorpio vehicle was intercepted, but the petitioner and co-accused



persons fled away from the vehicle and total 774.54 litres of India made foreign liquor was recovered from the said vehicle.

Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. The petitioner was not apprehended from the spot and nothing incriminating has been recovered from his person or possession. The story of Chaukidar identifying the petitioner and other co-accused persons is not believable as the same is stated to be done in the torch light. The petitioner has been purposely named in this case as he has got clean antecedent. The co-accused person Manoj Upadhyay has been granted bail by a Coordinate Bench of this Court vide order dated 03.02.2022 passed in Cr. Misc. No.36924 of 2021 and other co-accused person Jhunna Upadhyay has also been granted bail by the same Coordinate Bench vide order dated 18.02.2022 passed in Cr. Misc. No.49101 of 2021 and the case of the petitioner is on similar footing. The charge sheet has been submitted in this case and the petitioner is in custody since 18.07.2021.

Learned APP opposes the prayer for bail submitting that large quantity of liquor has been recovered from the vehicle of the petitioner.

Having regard to the submissions made hereinabove



and considering the fact that the petitioner was not apprehended from the spot and further considering the fact that charge sheet has been submitted in this case and the petitioner is in custody since 18.07.2021, 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 Additional Sessions Judge-2-cum-Special Judge, Buxar, in connection with Brahampur (Krishna Brahm) P.S. Case No. 467 of 2019, subject to the following conditions :

- (i) One bailor will be the deponent, who has sworn the affidavit, and another bailor will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence for 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.

V.K.Pandey/-

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(Arun Kumar Jha, J)

