

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 67518 of 2021**

Arising Out of PS. Case No.-104 Year-2021 Thana- FULKAHA District- Araria

SHANKAR KUMAR YADAV @ SHANKAR YADAV Son of Upendra
Yadav Resident of Village - Manikpur, P.s.- Fulkaha, Distt.- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr Ramesh Kumar Singh, Advocate
For the Opposite Party/s : Ms Pronoti Singh, APP

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

2 02-06-2022 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor (for brevity, *APP*) appearing for
the State of Bihar.

The petitioner seeks bail in Fulkaha Police Station
(for brevity, *PS*) Case No 104 of 2021 dated 25.06.2021
corresponding to Special Case No 579 of 2021 registered for the
offence punishable under Section 30 (a) of Bihar Prohibition
and Excise Act, 2016.

Since 26.06.2021, the petitioner is stated to be in
custody upon his arrest based on recovery of 45 liters Nepali
country made liquor.

Petitioner's counsel submits that the manner, in which
the petitioner has been apprehended, casts a grave doubt on the



prosecution case. The petitioner, along with the loaded motorcycle on which he was travelling, has been seized whereas the driver of the motorcycle has fled away. In fact, the petitioner was witnessing the search and seizure process and has been made an accused in the instant case while he was near the place of recovery, though he has no concern with the recovered illicit liquor. Altogether 4 cases have been shown as criminal antecedents of the petitioner, as mentioned in paragraph 3 of the petition. In one case, he has already been acquitted. He has pleaded guilty in the second case; in the third and fourth case, he has already been allowed bail. It is further submitted that investigation is complete in this case.

The learned APP has opposed the prayer for bail. It is submitted that petitioner has criminal antecedents and he has been arrested at the spot.

Considering the rival submissions, period of custody, the manner of petitioner's implication, quantum of recovery as also the completion of investigation, this Court, for the purposes of grant of bail, is, thus, inclined to accept the submissions advanced by the petitioner's counsel. Prayer for bail is allowed. Let the petitioner, above named, be released on bail on his furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with



two sureties of the like amount each to the satisfaction of Additional Sessions Judge II -cum- Special Judge, Araria in Fulkaha PS Case No 104 of 2021 corresponding to Special Case No 579 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.

Learned counsel for the petitioner is expected to honour his undertaking given in the instant proceedings today for depositing requisite Court fee and removing the defect (s), as pointed out, when called upon to do so.

(Madhuresh Prasad, J)

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