

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.59618 of 2022**

Arising Out of PS. Case No.-449 Year-2021 Thana- GARDANIBAG District- Patna

Baiju Choudhary S/o Sri Lalan Choudhary, Resident of Mohalla- Road no.-  
16, Tahir Lane Gali, P.S.- Gardanibagh, District- Patna.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Sunil Kumar Pathak, Advocate

For the Opposite Party/s : Mr. Pronoti Singh, APP

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

2      25-11-2022                      Heard learned counsel for the petitioner and learned  
APP for the State through video conferencing.

Let the defect (s), if any, as pointed out by the office  
be removed within a period of four weeks.

In the present case, the petitioner seeks bail in  
connection with Special Case No. 7469 of 2021 arising out of  
Gardanibagh P.S. Case No. 449 of 2021 registered for the  
alleged offences under Sections, 25(1-b)a/26 of the Arms Act  
and Section 30(a) of Bihar Prohibition and Excise (Amendment)  
Act, 2018.

As per prosecution case, the police received  
information about a miscreant brandishing pistols in both hands  
and using abusive language. The police reached there and the  
miscreant fled away on seeing the police. The said miscreant



is stated to be the petitioner of this case and further allegation is that he left his pistols and cartridges in the house of one Birju Chaudhay and escaped from the hands of the police. On further search of the house, 6.4 liters of country made *mahua* liquor was recovered.

Learned counsel for the petitioner submits that the petitioner was not apprehended from the spot and nothing incriminating has been recovered from his person or possession. Recovery has been made from the house of Birju Chaudhary. There is no independent witness to the seizure list and there is non-compliance of Section 100 of the Cr.P.C. regarding search and seizure. The whole prosecution story appears to be made by the police at the instance of the brother of the petitioner with whom he is on inimical term. The petitioner is in custody since 29.06.2022 and the charge-sheet has been submitted in this case.

Learned APP opposes the prayer for bail submitting that the petitioner is having criminal antecedent.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the fact that the petitioner was not apprehended from the spot and no recovery has been shown from his conscious possession and further considering the submission of charge-sheet and the



period of custody of the petitioner, he is directed to be released on bail on furnishing bail bonds of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise Act, Patna, in connection with Special Case No. 7469 of 2021 arising out of Gardanibagh P.S. Case No. 449 of 2021, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and the following conditions:

- (i) One of the bailors 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.

**(Arun Kumar Jha, J)**

Ashish/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

