

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71818 of 2021

Arising Out of PS. Case No.-290 Year-2021 Thana- ITARHI District- Buxar

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Gaurav Upadhyay Son of Sri Dharmendra Upadhyay Resident of Village -
Bagahi Patti, P.S.- Itarhi, Dist.- Buxar, Presently Residing at Sohanipatti,
Buxar, P.S.- Buxar (T), Dist.- Buxar.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

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Appearance :

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

For the Opposite Party/s : Mr. Madan Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 11-03-2022 Heard learned counsel for the petitioner and learned

Additional Public Prosecutor for the State in virtual court

proceeding.

Let the defects, as pointed out by the office, be

removed within four weeks of start of normal functioning of the

physical court.

Petitioner seeks bail in connection with Itarhi P.S.

Case No. 290 of 2021 registered for the offences punishable

under Section 30(a) of the Bihar Prohibition and Excise

Amendment Act, 2018.

Recovery is of 64.800 liters of liquor.

Learned counsel for the petitioner submits that

petitioner has clean antecedent and has committed no offence



and he has falsely been implicated in the present case. He further submits that it appears from the F.I.R. as well as seizure list that nothing has been recovered from conscious possession of the petitioner, rather the recovery has been made from the Scorpio vehicle in question. He further submits that after investigation police has submitted the charge sheet against the petitioner. He further submits that similarly situated, co-accused, namely, Amit Shah @ Amit Kumar and Manish Kumar Tiwari @ Manish Kumar have been granted bail by a co-ordinate Bench of this Court vide orders dated 22.12.2021 passed in Cr. Misc. No. 69484 of 2021 and Cr. Misc. No. 70021 of 2021. The petitioner is in custody since 19.09.2021.

The learned Additional Public Prosecutor has vehemently opposed the prayer for bail.

Considering the aforesaid facts and circumstances, 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 Additional District and Sessions Judge-II-cum-Special Judge, Excise, Buxar in connection with Itarhi P.S. Case No. 290 of 2021, subject to the following conditions:-

1. Petitioner shall co-operate in the trial and



shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

3. And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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