

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47033 of 2025

Arising Out of PS. Case No.-43 Year-2025 Thana- Haraiya District- East Champaran

Eitan Ben Shahr, Male, S/O Douglas Michael, aged about 41 years, R/O House No. 39456 Buchannon GAP RD Village/Town/City- Aldie, County/Distt.- Loudoun, State- Virginia, USA-20105.

... .. Petitioner

Versus

1. The State of Bihar
2. The Union of India through Ministry of Home, Govt. of India, New Delhi.

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Kumar Harshvardhan, Advocate
For the O.P. No. 2	:	Mr. Naresh Dikshit, Advocate and Ms. Shruti Singh, Advocate
For the State	:	Mr. Braj Kishore Pd., A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

3 09-09-2025 Heard learned counsel for the petitioner, learned counsel for the opposite party no. 2 and learned A.P.P. for the State.

2. The petitioner seeks bail in connection with Haraiya P.S. Case No. 43 of 2025 dated 25.04.2025 registered for the offences punishable under Sections 3(ii)a and 14(a)(b) of the Foreigners Act, 1946.

3. As per the prosecution case, on 24.04.2025 at about 10.00 P.M., an American Citizen, Eitan Ben-Shahr (petitioner) with Passport No. A03613065 which was valid from 30.08.2023 to 29.08.2033 and Indian Tourist Visa No. VL7846464 which



was valid from 08.09.2023 to 07.09.2033 came to the Immigration Office, Raxaul, to get departure clearance from India to go to Nepal, on which, while giving departure clearance, it was found that he did not have an arrival stamp in India, while the Entry Refusal stamp of Raxaul Immigration Office dated 30.10.2024 was affixed. It is further alleged that the document verification and interrogation revealed that the said American Citizen went to Nepal on 29.10.2024, departing from Raxaul and stayed for a total of 288 days in the year 2024 and again came to the Indian Immigration Office, Raxaul on 30.10.2024 to register his entry into India. It is further alleged that according to the Indian Visa Rules, no foreign national can stay for more than 180 days in a year on an Indian Tourist Visa. Since the petitioner had already stayed in India for more than 180 days i.e., total 288 days in the year 2024, he was not allowed to enter India, his entry was refused by the Immigration System and he was sent back to Nepal by stamping C.W.O.P. on his passport, but the petitioner entered and was staying in India illegally even after his entry was refused.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. It is submitted that the allegations made in the F.I.R.



are fabricated, omnibus, vague and bereft of any evidentiary support. It is further submitted that from perusal of the statements of the witnesses recorded under Section 180 of the B.N.S.S., 2023 by the Investigating Officer and other materials available on the record, it appears that no prima facie offence under Section 3(ii)(a) of the Foreigners Act, 1946 is made out. The petitioner was merely denied entry into India for exceeding the prescribed duration of stay under his valid tourist visa which clearly stipulates: "Each stay not to exceed 180 days". The petitioner has scrupulously abided by this condition. It is further submitted that no official at the Immigration Office explained the petitioner about the implications of the C.W.O.P. Stamp and instead permitted his re-entry into India after due biometric registration. The petitioner was allowed to enter India through the same Immigration Checkpost i.e., Raxaul, where he had earlier been refused entry which further indicates a procedural lapse on the part of the Immigration Officials rather than any criminal intent on the part of the petitioner. Learned counsel for the petitioner has further relied upon an order passed in the case of *Agastin Chinet Navot Vs. State of Bihar & Anr* reported in **2024SCC OnLine Pat 6010** where in a similarly situated case, this Hon'ble Court was pleased to grant bail to a *Nigerian*



Citizen provided-he submits his original passport in the trial court and co-operate with the trial. It is further submitted that after investigation, police submitted charge sheet against the petitioner on 22.06.2025 in the present case. It is further submitted that the petitioner is an American Citizen and he has been facing serious adversities in the jail where he has been presently lodged ranging from medical, environmental and hygiene related issues due to which he has developed several liver related complications and has also been diagnosed with jaundice and presently he is under severe pain with no proper care and treatment, so, he may be enlarged on bail for better treatment. It is also relevant to mention here that the petitioner's sole purpose for visiting India was to engage in educational, humanitarian and spiritual activities. He is associated with many non-profit organizations and educational institutions in Odisha and was working towards making a difference in the lives of poor and tribal people. It is further submitted that Section 15 of the Foreigners Act, 1946 states that "No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act ". The case of the petitioner is squarely covered under this provision as the petitioner was acting under *bonafide* belief that



he is permitted to stay in India for 180 days at a time and not in a calendar year. It is further submitted that from perusal of the Visa of the petitioner, it is evident that the instruction “Each stay not to exceed 180 days”. It is to be noted that the petitioner misunderstood the provision and the alleged violation has not been in his one visit/stay but during several visits and considering the vagueness in instructions as mentioned on the Visa, the petitioner got in trouble due to ignorance and innocence. The petitioner has clean antecedent as stated in paragraph no. 3 of the bail petition. The petitioner is in custody in this case since 25.04.2025.

5. Learned counsel for the opposite party no. 2 and learned A.P.P. for the State have vehemently opposed the bail petition of the petitioner.

6. Considering the aforesaid facts and circumstances of the case as well as the period of custody, the petitioner, above named, is directed to be enlarged on bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned S.D.J.M., Raxaul at Motihari in connection with Haraiya P.S. Case No. 43 of 2025 with further conditions:-

(I) The petitioner is directed to remain



physically present before the learned court
below as and when required by the learned
court below.

II. One of the bailors of the petitioner should
be an Indian.

7. The application stands allowed.

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(Chandra Prakash Singh, J)

