

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40456 of 2016

Arising Out of PS.Case No. -51 Year- 2016 Thana -CHANDRADEEP District- JAMUI

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1. Krishna Kumar Son of Jagarnath Ram@Jagannath Ram Resident of
Village- Majhauli, P.S. Patan Distt –Palamu, Jharkhand.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Yogesh Chandra Verma, Sr. Adv.
Mr. Ansul, Adv.

Mr. Chandra Mohan Jha, Adv.

For the State : Mr. Ram Priya Sharan Singh, APP

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

2 03-10-2016 Heard learned counsel for the petitioner as well as
learned Additional Public Prosecutor for the State.

Petitioner and some others were caught by the police
while they were carrying country-made liquor in a car in huge
quantity.

Petitioner is in jail custody since 29-06-2016 and
submission on behalf of petitioner is that the petitioner is being
prosecuted for the offences punishable under Section-47(A) of the
Excise (Amended) Act as well as Section-272, 273/34 of the
Indian Penal Code but a Division Bench of this court in CWJC
No. 6675 of 2016 declared the Notification dated 05-04-2016 as
ultravires and, therefore, the prosecution of the petitioner appears

to be bad in law.

It is informed on behalf of the prosecution that the State Government has notified Bihar Prohibition & Excise Act, 2016, which has come into force from 02-10-2016 and according to Section-98(2) of the aforesaid Act, anything done or any action taken under the Bihar Prohibition & Excise Act, 2016 shall be deemed to have been done, in the corresponding provision of the Bihar Prohibition & Excise Act, 2016.

In my view, when the Bihar Excise (Amendment) Act, 2016 has already been declared ultravires, Section-98(2) of the Bihar Prohibition & Excise Act, 2016 shall not apply in the case of the petitioner.

Considering the submission of the parties as well as facts and circumstances of the case, let the petitioner named above, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each in connection with Chandradeep P.S. Case No. 51 of 2016 to the satisfaction of Shri Sanjay Kumar, learned Judicial Magistrate-Ist Class, Jamui.

(Hemant Kumar Srivastava, J)

A.K.V./-

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