

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.24665 of 2016

Arising Out of PS.Case No. -146 Year- 2016 Thana -GOVERNMENT OFFICIAL COMP. District-
SARAN

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Arvind Gupta, son of Vindhychal Gupta, resident of Village and Post
Office- Nagpur, Police Station- Rasara, District- Ballia (Uttar Pradesh).

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Parijat Saurav

For the Opposite Party/s : Mr. Umanath Mishra, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 02-06-2016

Heard.

The petitioner seeks bail in a criminal prosecution registered under Section 47(a) of The Bihar Excise (Amendment) Act, 2016.

As per the prosecution case, three bottles of foreign liquor each containing 375 ml were seized from the possession of the petitioner.

Learned counsel appearing on behalf of the petitioner submits that the petitioner is in judicial custody since 04.05.2016 and he is the first offender. He further submits that in the notification dated 5th April, 2016 issued by the State Government in exercise of its powers under Section 19(4) of The Bihar Excise Act, 1915 as amended by amending Act, 2016 possession of foreign liquor has not been banned and, therefore, the petitioner cannot be said to have committed any offence.

Learned Addl. P. P. appearing on behalf of the State of Bihar, though has opposed the prayer for bail, but has not been

able to dispute the aforesaid submissions.

Today itself this Bench had occasion to consider the prayer for bail of one Prashant Prakash in Cr.Misc. No.24048 of 2016 wherein scheme and scope of Section 47(a) as also Section 19(4) of The Bihar Excise Act, 1915 as amended by amending Act, 2016 and notification issued thereunder have been considered at great length and finally bail has been allowed to that petitioner.

For the reasons recorded in Cr.Misc.No.24048 of 2016 and taking into consideration the fact that very small quantity of only about one liter of foreign liquor is alleged to have found in the possession of the petitioner and also taking into consideration the fact that he is said to be the first offender, this Court is inclined to accede to the prayer made on behalf of the petitioner for grant of bail. Accordingly, his prayer for bail is allowed.

Let the petitioner above named be released on bail on furnishing bail bond of Rs.25,000/- with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Saran at Chapra in connection with Excise Case No.146 of 2016, subject to the conditions that:

- (A) One of the bailors must be government servant or close family members of the petitioner, who will file an affidavit in the court below showing his/her relationship with the petitioner,
- (B) if the petitioner is found involved in same and similar nature of cases in future, then in that case the informant/prosecution shall be at liberty to file a petition for cancellation of bail of the petitioner, and if such a petition is filed, the court below would be obliged to dispose of the same in



accordance with law after giving opportunity of hearing to all concerned;

(C) the petitioner shall make regular pairvi in the court below in the present case either by appearing himself in person or through representation by his lawyer on each and every date, and if on two consecutive dates petitioner fails to make pairvi, then the court below shall be at liberty to cancel the bail bond of the petitioner.

(Birendra Prasad Verma, J)

Arvind/-

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