

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.24745 of 2016

Arising out of P.S.Case No. -131 Year- 2016 Thana -RAMPUR District- GAYA

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Smt. Manorama Devi, W/o Bindi Yadav@Bindeshwari Prasad Yadav, Resident of
House No. 51, A.P. Colony, P.S. –Rampur, District -Gaya.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Y.V.Giri, Sr. Advocate.
Mr. Pranav Kumar, Advocate.

For the State : Mr. D.K.Sinha, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 06-06-2016

Heard Mr. Y.V.Giri, learned senior counsel assisted by
Mr. Pranav Kumar, learned counsel for the petitioner and Mr. Dilip
Kumar Sinha, learned A.P.P. for the State.

The petitioner seeks bail in Rampur P.S.Case No. 131 of
2016 dated 10.05.2016 instituted under Sections 47(a), 48, 53(c) and
54 of the Bihar Excise (Amendment) Act, 2016.

The allegation against the petitioner is that from the house
of the petitioner, six bottles of Indian made foreign liquor were
recovered.

Learned counsel for the petitioner submits that she is a lady
and is not named in the FIR and later on she has been implicated only
on the ground that the house, from which such alleged recovery of six



bottles of Indian Made Foreign Liquor/foreign liquor were made, is her property, though she was not present there, and further the allegation that it was in her knowledge that bottles were kept. He submits that in view of consistent view taken by the co-ordinate Benches, even in exercise of power conferred under Section 19(4) of the Bihar Excise Act, 1915, as amended upto Act 3 of 2016, the Notification No. 11/Nai Utpad Niti-01-03/2016-1485 published by the Government in the Bihar Gazette (Extraordinary) dated 5th April, 2016 being:

“In exercise of the powers conferred under Section 19(4) of the Bihar Excise Act, 1915 (as amended by Bihar Excise (Amendment) Act, 2016), the State Government hereby imposes ban on wholesale or retail trade and consumption of foreign liquor by any licence holder or any person in the whole of the State of Bihar with immediate effect”,

it would be *prima facie* evident, unless shown otherwise, that possession *simpliciter* of foreign liquor has not been banned by the State Government. Thus, according to him, in view of the aforesaid and the admitted position being that the petitioner was not even in the house and only because of her being the owner of the property, she has been implicated, no offence is made out against her, much less under the sections enumerated in the F.I.R. In support of such contention, learned counsel has produced web copies of orders dated 24.05.2016, 26.05.2016 and 02.06.2016 passed by co-ordinate Benches of this Court in Cr. Misc. No. 22962 of 2016, Cr.W.J.C.No.

533 of 2016 and Cr. Misc. No. 24040 of 2016 respectively. Let the same be kept on record.

Learned A.P.P. for the State opposes the prayer for bail and submits that there is complete ban of the use of liquor in the State of Bihar. However, he is not in a position to deny the fact that possession *simpliciter* has also been banned. He has also not been able to distinguish the orders passed by the co-ordinate Benches of this Court with regard to possession of foreign liquor and their applicability to the facts of the present case.

Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let the petitioner be released on bail upon furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Gaya in connection with Rampur P.S. Case No. 131 of 2016, subject to the condition that petitioner shall present herself before the police/court, as the case may be, as and when required and in the event of failure on her part to do so, her bail bonds shall be liable to be cancelled.

(Ahsanuddin Amanullah, J)

Sujit/-

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