

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.9754 of 2019

Arising Out of PS. Case No.-453 Year-2018 Thana- GARDANIBAG District- Patna

Arvind Kumar, S/O- Sri Binod Rai, R/V- Pachhami Tola, Saristabad, (tenant near at the house of ward councilor Avinsh Jee), P.S.- Gardanibagh, District- Patna.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vijay Kumar Sinha

For the Opposite Party/s : Mr. Sharda Kumari

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 19-02-2019 Heard learned counsels for the petitioner and the State.

The petitioner is languishing in custody since 15.11.2018 in a case registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

The prosecution case, as per the written report of Vikash Kumar, S.I., Gardanbagh P.S., dated 05.10.2018 submitted to the Station House Officer, Gardanibagh Police Station, is to the effect that on the same day during patrolling, one Maruti car and a scooter were intercepted. On the scooter, co-accused Shravan Kumar was travelling from whose possession, a country made pistol, cartridges and two canes of Bear of 500 ml each, were recovered, whereas from the Maruti car in which on the driver's seat, the petitioner was sitting, 32 litres of illicit Indian Made



Foreign Liquor and 14 canes of Bear of 500 ml each, were recovered.

It is submitted by learned counsel for the petitioner that for the same incident, two criminal cases have been lodged. One is Gardanibagh P.S. Case No.452 of 2018 registered for the offences punishable under Sections 25(1-B)a, 26 and 35 of the Arms Act, while the other case is the present case, which has been registered for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016, against the petitioner. It is further submitted that in the other case which was registered under the provisions of the Arms Act, the recovery was shown of empty unused liquor bottles of illicit liquor, from the car in which the petitioner was found sitting on the driving seat whereas, in the present case, recovery of 32 litres of illicit liquor has been shown from the alleged car. It is further submitted that moreover, similarly situated co-accused, Shravan Kumar has been granted bail by a Co-ordinate Bench of this Court vide order dated 05.02.2019, passed in Cr. Misc. No. 5220 of 2019.

Learned APP submits that the said recovery has been made from the Maruti Car by which the petitioner was travelling.

Considering the fact that for the same incident, two



FIRs were lodged, out of which one is under the provisions of the Arms Act, while the other is under the provision of the Bihar Prohibition and Excise Act, but there is inconsistency between the seizure lists of both the cases, period under custody and the investigation being concluded, let the above named petitioner be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of like amount each to the satisfaction of learned **Special Judge, Excise, Patna** in connection with **Special Case No.9582 of 2018 arising out of Gardanibagh P.S. Case No.453 of 2018.**

(Dinesh Kumar Singh, J)

Deepak/Rahul/-

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