

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3529 of 2020

Arising Out of PS. Case No.-107 Year-2018 Thana- GANGABRIDGE District- Vaishali

SHYAM BABU RAI Son of Garbhu Rai @ Garbhu Ray Resident of Village -
Diwan Tok, P.S. - Ganga Bridge, Dist. - Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anil Kumar, Adv.

For the Opposite Party/s : Mr. Uma Shankar Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 13-05-2020 Heard.

The proceeding has been conducted through video conferencing.

The petitioner has preferred the present application for grant of bail in a case registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act, 2016 as amended by the Amendment Act 8 of 2018 (hereinafter referred to as the Act) as he is languishing in custody since 07.11.2019.

The prosecution case, as per the written report of Satyabrat Ravidas, ASI of Ganga Bridge Police Station submitted to the Station House Officer of Ganga Bridge Police Station is to the effect that on 18.07.2018 during patrolling at 7.30 P.M. one pickup van was intercepted and from the same altogether 354.960 litres of Indian made foreign liquor were recovered.



However, driver of the pickup van managed to escape from the scene, leading to registration of the present FIR.

It is submitted by learned counsel for the petitioner that the petitioner is the owner of the vehicle in question, he was not aware about the liquor being transported through the vehicle by the driver and admittedly, petitioner was not present in the vehicle. It is further submitted that subsequently the name of the petitioner sprang up since he was arrested on 07.11.2019 and hence, the recovery cannot be treated from the possession of the petitioner. The FIR has been registered and seizure has been made by Assistant Sub-Inspector of Police, whereas Section 73(e) of the Act authorizes a police officer not below the rank of Sub Inspector to make search or seizure. A statement has been made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent.

The report of Superintendent of Police, Vaishali dated 11.02.2020 at Flag 'A' reflects that the petitioner has no criminal antecedent.

Learned APP, after going through the case diary, submits that the recovery has been made from the pickup van of the petitioner, hence, recovery can be treated from the possession of the petitioner.



Considering the extraordinary situation due to present pandemic Covid-19, there is nothing on record to suggest that the petitioner was present when the seizure was made from the vehicle in question, investigation has already been concluded and the period in custody, coupled with the statement made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent, let the petitioner above named be released on bail, for the present, provisionally for a period of three months on furnishing one surety to the satisfaction of the learned Additional Sessions Judge-II -cum- Special Judge, Excise Court, Vaishali at Hajipur in connection with Ganga Bridge P.S. Case No. 107 of 2018.

However, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional bail of the petitioner will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) with two sureties including one surety given at the time of provisional



bail of the like amount each to the satisfaction of the learned
Additional Sessions Judge-II -cum- Special Judge, Excise
Court, Vaishali at Hajipur in connection with Ganga Bridge P.S.
Case No. 107 of 2018.

The learned Court below will further be at liberty to
extend the period of provisional bail further if the lock down is
not over in three months.

(Dinesh Kumar Singh, J)

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