

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 2796 of 2020**

Arising Out of PS. Case No.-258 Year-2019 Thana- GAUTAMBUDHNAGAR District-
Siwan

NIKESH KUMAR Son of Umashankar Sah Resident of Village - Katalpur,
P.S.- Gautam Budh Nagar (G.B. Nagar), Distt.- Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr Shambhu Prasad Yadav, Advocate
For the Opposite Party/s : Ms Pushpa Sinha, APP

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

4 15-05-2020 The matter has been listed today for consideration through Video Conferencing in view of the Nationwide lock down on account of the COVID 19 Pandemic.

Learned counsels are appearing and making submissions from their residence. The Court Master and Secretary are also part of this virtual Court proceedings with the aid of audio visual technology.

Heard Mr Shambhu Prasad Yadav, learned counsel for the petitioner as well as Ms Pushpa Sinha, learned APP for the State.

Petitioner seeks bail in Gautam Budh (GB) Nagar Police Station (for brevity, PS) Case No 258 of 2019 instituted for the offence punishable under Sections 34, 30 (a), 36, 38, 41



(1) of Bihar Prohibition and Excise Act, 2016.

A written report has been filed by the police personnel that during patrolling duty, acting on confidential information, they proceeded towards the bushes near the Fertilizer Godown Qabristan where they recovered total 1097.280 liters of illicit Indian Made Foreign Liquor. The petitioner, along with two others, has been named by the police personnel as being the persons who have kept liquor there.

Petitioner's counsel submits that the prosecution, without any basis, has named the petitioner. Even in the first information report, there is no whisper as to why and on what basis, the petitioner has been found responsible for the recovery of illicit liquor. Just the name of the petitioner has been written by the police personnel. Under these circumstances, the petitioner is in custody since 11.12.2019.

From the case diary also, it is submitted that the possibility of the petitioner's involvement in the crime is doubtful.

Supplementary affidavit has been filed on behalf of the petitioner which is kept on record in which it is stated that GB Nagar PS Case No 264 of 2018 is pending against the petitioner from before.



The learned APP for the State opposed the prayer for bail.

Considering the rival submissions, this Court is inclined to allow petitioner's prayer for bail.

Accordingly, let the petitioner, above named, be released on bail on his furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Additional Sessions Judge II -cum- Special Judge, Excise Act, Siwan in GB Nagar PS Case No 258 of 2019 subject to the following conditions -

(1) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailors will also undertake to inform the Court if there is any change in the address of the petitioner.

(2) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

It is further made clear that during currency of the Nationwide lock down due to COVID 19 Pandemic, requirement of furnishing bail bonds and conditions shall remain suspended and the petitioners be released on executing



and furnishing their personal bonds to the satisfaction of the Court concerned.

The petitioner must comply with the requirements of furnishing bail bonds and conditions in terms of this order within four weeks after normal working resumes, failing which bail granted under this order shall stand cancelled and petitioner will be liable for the consequences thereof in accordance with law.

Let this order be communicated, without any delay, to the Court of Additional Sessions Judge II -cum- Special Judge, Excise Act, Siwan and the competent authority of the State in terms of Clause 13 of Notice II published in the cause list uploaded on the Website of this Court.

(Madhuresh Prasad, J)

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