

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3848 of 2020

Arising Out of PS. Case No.-586 Year-2019 Thana- GAYA KOTWALI District- Gaya

Gautam Kumar @ Babloo Yadav @ Babloo Son of Late Munna Yadav
Resident of Mohalla - Nadraganj, P.S.- Civil Lines, Distt – Gaya .. Petitioner
Versus

The State of Bihar

... Opposite Party

Appearance :

For the Petitioner : Mr.Praveen Kumar, Advocate

For the State : Mr.Murlidhar, Addl.Public Prosecutor

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

5 12-05-2020 Heard learned counsel for the parties.

This matter is taken up for consideration through Video Conferencing under the orders of Hon'ble the Chief Justice.

The petitioner seeks regular bail in a case registered for an offence punishable under sections 30(a), 54 and 57 of Bihar Prohibition and Excise Act, 2016 and sections 420, 406 & 34 of the IPC.

2195.85 liters of illicit liquor is said to have been recovered from Purani Godown, Garikhana as well as from the house of the petitioner. In course of raid, police also found several vehicles parked on the spot and engaged in unloading of the said illicit liquor from a truck for its further transportation. Police arrested the petitioner and other accused persons on the spot.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in this case as the Godown and the house of the petitioner in question are presently in under the control and custody of the Vijya Bank (now Bank of Baroda). The bank has put its seal and lock over the said



property under the SARFAESI Act thus the petitioner was not in the possession of the godown and the house from where the alleged recovery has been made. A copy of the document showing the physical possession of the godown and the house is annexed as Annexure 2 to the bail petition. Petitioner is in custody since 27.12.2019. It is also submitted that the petitioner neither the owner of the vehicles nor any incriminating material has come during investigation connecting him with the recovery of the illegal liquor. Provisions of section 100 Cr.P.C. have not been followed by the police at the time of search and seizure. Charge sheet has also been submitted in the case.

Learned Addl.P.P. did not controvert the facts. He submits that pursuant to earlier direction of this Court, District Magistrate's communications are already on record of the case contained in Annexures A, B & C to the counter affidavit.

Taking into consideration the facts and circumstances of the case, let the petitioner, above named, be released on bail on furnishing bail bond of Rs.10,000/-(Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, Excise, Gaya in Kotwali Police Station Case No. 586/2019 on the following conditions:-

(1) Petitioner shall cooperate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present, as directed by the Court and on his absence on two consecutive dates without sufficient reason, his bail-bonds shall be cancelled by the Court below. (2) If the petitioner tampers with the evidence or witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

Since there is a lock down, the Court has considered it



appropriate to adopt following procedure for communication of the present order :-

(i) The order, which has been dictated during the course of the proceedings of virtual Court, shall be communicated to me on my e-mail I.D. by the concerned Secretary.

(ii) The corrected copy of the order shall be transmitted by me from my e-mail I.D. to the Secretary, which shall be treated to be the authentic copy of the order passed by this Court today in the present proceeding.

(iii) Hard copy of the order, duly signed by me, shall be preserved in my residential-office for documentation and future use, if any.

(iv) Registry to communicate this order to learned counsel for both the parties on their e-mail address, if available. Registry will also ensure uploading of this order and communication to the court below immediately.

(Prabhat Kumar Singh, J)

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