

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3935 of 2020

Arising Out of PS. Case No.-318 Year-2019 Thana- PANDAUL District- Madhubani

Amar Nayak (M) aged about 32 years Son of Late Ram Prasad Nayak
Resident of Village - Balha, P.S. Pandaul, District - Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Subhash Kumar Jha, Advocate

For the Opposite Party/s : Ms. Sharda Kumari, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 07-07-2020

The matter has been heard *via* video conferencing
due to circumstances prevailing on account of the COVID-19
pandemic.

2. Heard Mr. Subhash Kumar Jha, learned counsel for
the petitioner and Ms. Sharda Kumari, learned Additional
Public Prosecutor (hereinafter referred to as the 'APP') for the
State.

3. The petitioner is in custody in connection with
Pandaul PS Case No. 318 of 2019 dated 28.12.2019, instituted
under Sections 272/273 of the Indian Penal Code and
30(a)/36/38(a)/41(i) of the Bihar Prohibition and Excise Act,
2016.

4. The allegation against the petitioner is that from his



house, upon raid, the police recovered 2087 litres of foreign wine and the petitioner was caught whereas co-accused Santosh Panjiyar fled away.

5. Learned counsel for the petitioner submitted that the recovery has not been made from his conscious possession and further that the room in the house from which the recovery has been made was given on rent to the co-accused and thus he was neither aware of what was stored in the room nor is responsible for such articles. Learned counsel submitted that the co-accused Santosh Panjiyar has been granted bail. Learned counsel submitted that the petitioner has no other criminal antecedent and is in custody since 29.12.2019.

6. Learned APP, from the case diary, submitted that there has been huge recovery of foreign liquor from the house of the petitioner, and, thus he cannot plead innocence. It was further submitted that one room in the house where the petitioner lives being given on rent to someone else cannot be accepted to be true and further in the room such huge quantity of liquor being stored cannot be believed to be without the petitioner and his other family members being aware as to what is being brought in the room and kept as they would have obviously seen and known about the articles which were



brought and kept in the room. Learned counsel submitted that the petitioner has also accepted that he was in the business of illicit trafficking of liquor along with the co-accused. It was further submitted that the co-accused Santosh Panjiyar is not similarly situated as no recovery has been made, either from his person or from his house, whereas from the house of the petitioner huge quantity of liquor has been recovered.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to enlarge the petitioner on bail.

8. Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J)

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