

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4956 of 2020

Arising Out of PS. Case No.-215 Year-2019 Thana- JAMOBABAZAR District- Siwan

MD. WASHIM, Son of Noor Mohammad @ Noor Mahamda Ansari, Resident
of Village - Bakhraul (Bakhrour), Jaddi, P.S.- Barauli, Distt - Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Gautam Kumar Yadav, Adv.

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

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

3 14-05-2020 Heard Mr. Gautam Kumar Yadav, learned counsel
for the petitioner and Mr. Uma Shankar Prasad Singh, learned
APP for the State.

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 Sections 272, 273, 308/34 of the Indian Penal Code and



Sections 30(a) of the Bihar Prohibition and Excise Act, 2016, as amended by the Amendment Act 8 of 2018, as the petitioner is languishing in custody since 20.12.2019.

The prosecution case, written report of Suraj Prasad, S.I.-cum-S.H.O., Jamo Bazar Police Station submitted to the 2nd A.D.J.-cum-Special Judge (Excise), Siwan is to the effect that on 19.12.2018 at 01.00 A.M., secret information was received that in the village Bhopatpur a truck bearing registration No. of the State of Haryana is parked loaded with illicit liquor. Subsequently, a raid was laid and several persons were found on the truck and ultimately six persons were apprehended, including the petitioner, one person managed to escape from the scene who was identified as co-accused, Satyendra Sah. One Scorpio vehicle was also found parked there. From the truck in question altogether, 3924.720 litres of Indian Made Foreign Liquor were recovered. The driver of the truck co-accused, Rakesh stated that he was being hired by co-accused, Raj Kumar Yadav whereas co-accused, Ramu Kumar suggested that he along with co-accused, Satyendra Sah has brought the liquor from Haryana and came to give the liquor to Md. Wasim (the petitioner), co-accused, Vikky Kumar and co-accused Rajkumar. The petitioner claimed to be the driver of the Scorpio vehicle,



leading to registration of the present case.

It is submitted by learned counsel for the petitioner that admittedly the petitioner was the driver of the Scorpio vehicle and there is no recovery from the Scorpio vehicle. The petitioner is languishing in custody since 20.12.2019. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent. Moreover, similarly situated co-accused, Vikky Kumar has been granted bail by a Co-ordinate Bench of this Court vide order dated 04.03.2020, passed in Criminal Miscellaneous No. 7633 of 2020 and the investigation has already been concluded.

Learned APP for the State submits that the petitioner was fled away from the place of seizure and from the statement of the co-accused, the said liquor was recovered. However, he is not controverting the argument of learned counsel for the petitioner that there is no recovery from the Scorpio vehicle and the investigation has already been concluded.

Considering the fact that the petitioner has been named as a driver of the Scorpio vehicle, who was not apprehended from the place of seizure, there being no recovery from the Scorpio vehicle, the investigation has already been concluded and paragraph No. 28 of the case diary which has



been recorded by the investigating agency 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 2nd A.D.J.-cum-Special Judge, Excise, Siwan, in connection with Jamo Bazar P.S. Case No. 215 of 2019.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the bailor, on photo copy of his Adhar 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 2nd A.D.J.-cum-Special Judge, Excise, Siwan, in connection with Jamo Bazar P.S. Case No. 215 of 2019.

The learned Court below will further be at liberty to extend the period of provisional bail further if the lockdown is



not over in three months.

(Dinesh Kumar Singh, J)

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