

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7203 of 2020

Arising Out of PS. Case No.-5 Year-2020 Thana- HARLAKHI District- Madhubani

Lal Babu Sahani Son of Mahendra Sahani Resident of Village - Harsuwar,
P.S.- Harlakhi, District- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Jha
For the Opposite Party/s : Mrs. Pushpa Sinha.1

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 11-06-2020 The matter has been taken up through virtual court proceeding.

Heard learned counsel for the petitioner and the State.

The petitioner, who is languishing in custody since 08.01.2020, has preferred the present application for grant of bail in a case registered for the offences punishable under Sections 272 and 273 of the IPC and Section 30(a) of the Bihar Prohibition and Excise Act, 2016, as amended by Amendment Act 8 of 2018.

It appears that a Co-ordinate bench of this Court, vide order dated 06.02.2020, called for the case diary of Harlakhi P.S. Case No. 05 of 2020. More than four months have lapsed, but the same has not been received as yet and due to present pandemic, Covid-19, there is no likelihood of the same being received in near future, hence the matter is being heard on merit



without case diary.

The prosecution case, as per the written report of S.I., Md. Taliv Khan, submitted to the S.H.O., Harlakhi Police Station is to the effect that on 07.01.2020, a secret information was received that through a Sumo Victa and a motorcycle, illicit liquor is being transported, consequently, raid was laid and from the Sumo Victa vehicle, 471 litres of Nepali liquor were recovered and one person travelling on a motorcycle was apprehended, who disclosed his name as Lal Babu Sahni, the petitioner, who claims to be the owner of the vehicles in question.

It is submitted by learned counsel for the petitioner that the petitioner was apprehended while travelling on a motorcycle, whereas the recovery has been made from Sumo Victa car, hence, recovery cannot be treated to have been made from the physical possession of the petitioner. The investigation has already been concluded and a statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent. It is further submitted that the petitioner is not the owner of the alleged vehicles, statement to that effect has been made in paragraph no. 6 of the petition, which reads as follows:-



“That here it is also important to state that petitioner is not owner of either Sumo Victa or the motorcycle seized by police in this case.”

Learned APP submits that recovery has been made from the vehicle of the petitioner.

Considering the fact that investigation has already been concluded, period under custody and the petitioner having no criminal antecedent, coupled with the statement made in the petition that the petitioner is not the owner of the alleged vehicles, which has not been controverted by learned APP, 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 Act, Madhubani in connection with Harlakhi P.S. Case No. 05 of 2020.

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 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 learned Additional Sessions Judge-II-cum-Special Judge, Excise Act, Madhubani in connection with Harlakhi P.S. Case No. 05 of 2020.

The learned Court below will be at liberty to extend the period of provisional bail further if the court proceeding in physical mode will not resume in next three months.

(Dinesh Kumar Singh, J)

Amrendra/-

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