

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10016 of 2020

Arising Out of PS. Case No.-4 Year-2020 Thana- DELHA District- Gaya

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DILIP THATHERA @ DILIP SAV Son of Late Janki Sao Resident of
Mohalla - Dhaniya Bageecha, Police Station - Delha and District - Gaya.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manish Kumar No. 2 Advocate.

For the Opposite Party/s : Mr. Dilip Kumar No. 1, APP

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 14-05-2020

The matter has been listed today for consideration through Video Conferencing in view of the Nationwide Lockdown on account of the Covid 19 pandemic.

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

Heard learned counsel for the petitioner and the learned APP for the State.

The petitioner seeks bail in Delha P. S. Case No. 4 of 2020 instituted for the offence under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

The case of the prosecution is that liquor was being unloaded from a car in front of petitioner's house. From the vehicle and the house of the petitioner 168 bottles beer and 118 liters IMFL has been recovered.

It is submitted by learned Counsel for the petitioner that the petitioner has no concern with the liquor recovered and the same does not belong to him. It is his submission that his implication is based on extraneous consideration. It is also submitted that there is no compliance with Section 100 Cr.P.C. and there is no sampling or forensic opinion to support that the recovered article was in fact banned



alcoholic substance. He is on bail in the six cases pending against him of similar nature. In this case he is in custody since 7.1.2020.

Learned APP for the State opposed the prayer for bail and has submitted that the petitioner is a habitual offender and does not deserve privilege of bail.

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

Accordingly, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/-(Ten thousand) with two sureties of the like amount each to the satisfaction of the Special Judge Excise Act, Gaya, in connection with Delha P. S. Case No. 4 of 2020 , subject to the following conditions:-

- i. 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 bailor will also undertake to inform the Court if there is any change in the address of the petitioner.
- ii. 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 lockdown due to COVID 19 pandemic, requirement of furnishing bail bonds and conditions shall remain suspended and the petitioner be released on executing and furnishing his personal bond 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 4 weeks after normal working resumes, failing which bail granted under this order shall stand cancelled and petitioner liable for the consequences thereof in accordance with law.

Let this order be communicated, without any delay, to



the court of learned Special Judge, Excise Act, Gaya 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 the Patna High Court.

(Madhuresh Prasad, J)

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