

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 10243 of 2020**

Arising Out of PS. Case No.-881 Year-2019 Thana- KAHALGAON District- Bhagalpur

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RUPESH KUMAR Son of Dilip Sah Resident of Village - Chai Tola
Kaithpura, P.S. - Rasalpur (Kahalgaon), District - Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr Rajive Ranjan Singh, Advocate

For the Opposite Party/s : Dr Kumar Uday Pratap, APP

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

3 13-05-2020 The matter has been listed today for consideration through Video Conferencing in view of the Nationwide lock down on account of the COVID 19 Pandemic.

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

Heard Mr Rajive Ranjan Singh, learned counsel for the petitioner as well as Dr Kumar Uday Pratap, learned APP for the State.

Petitioner seeks bail in Kahalgaon (Rasalpur) Police Station (for brevity, PS) Case No 881 of 2019 instituted for the offence punishable under Sections 188, 290 of Indian Penal



Code and Section 30 (a) of Bihar Prohibition and Excise Act, 2016.

Prosecution case is lodged by the Sub Inspector who alleges that the petitioner was moving on unregistered Apache motorcycle when he was stopped by him. Tagged behind the seat of the said motorcycle was a plastic bag containing 31.5 liters of country made liquor.

Petitioner's counsel submits that for alleged recovery of 31.5 liters of country made liquor, petitioner is in custody since 27.12.2019. Falsity of the allegation would be evident from the fact that the informant is a Sub Inspector, still recovery is alleged one day prior thereto on 26.12.2019, but FIR lodged on 27.12.2019. It is submitted by the petitioner's counsel that it is out and out a case of false implication and there is non compliance of Section 100 of Criminal Procedure Code. The petitioner is stated to be a man of clean antecedent.

The learned APP for the State opposed the prayer for bail submitting that since the plastic bag was tagged on the petitioner's motorcycle, he cannot deny or dispute recovery of the banned liquor.

Considering the rival submissions, this Court is inclined to allow petitioners' prayer for bail.



Accordingly, let the petitioners, above named, be released on bail on his furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Additional Sessions Judge II -cum- Special Judge, Excise Act, Bhagalpur in Kahalgaon (Rasalpur) PS Case No 881 of 2019 subject to the following conditions -

(1) 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 bailors will also undertake to inform the Court if there is any change in the address of the petitioner.

(2) 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 lock down due to COVID 19 Pandemic, requirement of furnishing bail bonds and conditions shall remain suspended and the petitioners be released on executing and furnishing their personal bonds 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 four weeks after normal working resumes, failing which bail granted under this order shall stand cancelled and petitioner will be liable for the consequences thereof in accordance with law.

Let this order be communicated, without any delay, to the Court of Additional Sessions Judge II -cum- Special Judge, Excise Act, Bhagalpur 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 this Court.

(Madhuresh Prasad, J)

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