

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8601 of 2020

Arising Out of PS. Case No.-10 Year-2020 Thana- SAKRI District- Madhubani

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Awdhesh Kumar Singh Son of Arjun Singh Resident of Village - Pandaul
(Pachwari Tole), P.S.- Pandaul, District - Madhubani.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Subhash Kumar Jha

For the Opposite Party/s : Mr.Pushpa Sinha. 1

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 09-07-2020 The matter has been taken up through virtual Court
proceeding.

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

The petitioner is languishing in jail since 18.1.2020 in a
case registered for the offences punishable under Sections 272
and 273 of the IPC and Sections 30(a), 38(i) and 41(1) of the
Bihar Prohibition and Excise Act, 2016, as amended by Act 8 of
Amendment Act, 2018. Hence, prayer for bail has been made
through the present application.

The prosecution case, as per the self statement of S.I.
-cum- S.H.O., Ashok Kumar, Sakri Police Station recorded on
17.1.2020 is to the effect that on 16/17.1.2020 at 2.00 A.M., a
secret information was received that co-accused Pawan Safi,



Sandeep Safi, Kamlesh Yadav and Bikram Yadav have brought liquor from Haryana by a truck and the same is being unloaded, whereupon, a raid was laid and it was found that liquor is being unloaded from the truck and loaded on three Pick-up vehicles, and the petitioner was apprehended from the place of seizure and ultimately, total 6534.72 litres of Indian Made Foreign liquor were recovered, leading to registration of the case.

It is submitted by learned counsel for the petitioner that only on the basis of suspicion, the petitioner has been roped in the present case. The petitioner has neither concern with any of the vehicles in question nor with the land from which, the recovery has been made. Statement to that effect has been made in paragraph 7 of the petition. It is further submitted that, in fact, the seizure list suggests that the recovery has been made from the land belonging to Darbhanga Maharaj. However, statement has been made in paragraph 3 of the petition that petitioner is accused in another case for the offences punishable under Section 498A of the IPC but in the said case, he is on bail.

Learned APP submits that the petitioner was apprehended from the place of seizure. However, she does not controvert the stand of the petitioner that the vehicles in question are not registered in the name of the petitioner.



Considering the fact that major recovery has been made from the total four vehicles in question no offence under Section 38(i) of the Act is made out against the petitioner since the provision under Section 38 of the Act has been deleted by Amendment Act 8 of 2018, and the stand of the petitioner that any of the vehicles is not registered in the name of the petitioner, investigation already being concluded, coupled with the period in custody, 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 Additional Sessions Judge-cum-Special Judge, Excise Act, Madhubani in connection with Sakri P.S. Case No. 10 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 of the like amount each to the satisfaction of the learned
2nd Additional Sessions Judge-cum-Special Judge, Excise Act,
Madhubani including one surety given at the time of provisional
bail.

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

This application is accordingly disposed of.

(Dinesh Kumar Singh, J)

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