

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9070 of 2020

Arising Out of PS. Case No.-250 Year-2019 Thana- Manigachhi District- Darbhanga

Hare Ram Sah, Son of Vijay Sah, Resident of Village - Jhahuri, P.S.- Laukahi,
District- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Kuldeep Kumar, Advocate

For the Opposite Party/s : Ms. Pushpa Sinha, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 14-05-2020 The matter has been listed today for consideration through video conferencing in view of the nationwide lockdown on account of 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 connection with Manigachhi P.S. Case No.250 of 2019 instituted for the offence under Sections 272, 273, 34 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition & Excise Act, 2016.

The prosecution case is that at Raj Toll Plaza on



NH-57, the police personnel acting on a secret information checked the vehicle (Scorpio), bearing Registration No.DL2FAV0075, whereupon 1530 bottles (300 ml. each) of Nepali Sofia wine were recovered. The petitioner has been apprehended from the vehicle and is alleged to be the Driver.

The petitioner's counsel submits that the petitioner has falsely been implicated in this case and that he was a passerby. There is no compliance of the procedure of seizure prescribed under Section 100 Cr.P.C. and the officer belongs to the rank of Sub-Inspector had no power to conduct such seizure as per Section 73(1)(e) of the Bihar Prohibition & Excise Act. The petitioner bears a clean antecedent and is in custody since 28.11.2019.

Learned APP for the State has opposed the prayer for bail. She has submitted that having been apprehended from the vehicle in question, the petitioner is responsible for the criminal liability arising out of the recovery made under the Bihar Prohibition & Excise Act.

Considering the rival submissions, the prayer for bail made on behalf of the petitioner is allowed.

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 learned Additional Sessions Judge-II-cum-Special Judge (Excise Act), Darbhanga, in connection with Manigachhi P.S. Case No.250 of 2019, 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 requirement 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



shall be liable for the consequences thereof in accordance with law.

Let this order be communicated, without any delay, to the court of learned Additional Sessions Judge II-cum-Special Judge, (Excise Act), Darbhanga 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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