

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 12939 of 2020

Arising out of PS. Case No.-19 Year-2020 Thana- CHAPRA MUFFASIL District- Saran

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Rajesh Rai, aged about 30 years, Gender-Male, Son of Vishwanath Rai,
Resident of Village - Mangaidih (Magaidih), P.S.- Chapra Muffassil, District
-Saran at Chapra

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dewendra Narayan Singh, Advocate
For the State : Ms. Asha Devi, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 13-11-2020

The matter has been heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. Heard Mr. Dewendra Narayan Singh, learned counsel for the petitioner and Ms. Asha Devi, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioner apprehends arrest in connection with Chapra (M) PS Case No. 19 of 2020 dated 10.01.2020, instituted under Sections 272/273/34 of the Indian Penal Code and 30(a)/41(1)/37(b) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the ‘Act’).

4. The allegation against the petitioner, along with



others, is that he was connected to the 210 litres of country made wine which was recovered by the police from a Maruti Suzuki Wagon R vehicle, and was dealing in such business.

5. Learned counsel for the petitioner submitted that he is innocent and only because of the confessional statement of co-accused Pintu Kumar Mahto the petitioner has also been made a named accused. It was submitted that a motorcycle was also recovered. However, learned counsel submitted that he has given a categorical statement on oath in the application that neither the motorcycle nor the Maruti Suzuki Wagon R vehicle belongs to the petitioner or he is connected with it in any way. Further, it was submitted that the petitioner has no criminal antecedent. Learned counsel submitted that erroneously the Court below has rejected the prayer for anticipatory bail on the ground of bar of Section 76(2) of the Act, for the reason that there is no direct connection of the petitioner to the recovered articles and it is only a suspicion and, thus, such bar would not apply.

6. Learned APP, from the case diary, submitted that the person who was caught has disclosed the name of the petitioner as being partner in the business of illegal liquor and, thus, he cannot plead innocence. However, she could not



controvert that there is no finding in the investigation that the seized motorcycle or vehicle belonged to the petitioner and also there is no mentioning of any criminal antecedent of the petitioner. Further, it was not denied that there is no direct evidence of the petitioner being connected with the recovered articles.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned 2nd Additional Sessions Judge-cum-Special Judge, Excise, Saran at Chapra in Chapra (M) PS Case No. 19 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973. Further, (i) that one of the bailors shall be a close relative of the petitioner, (ii) that the petitioner and the bailors shall execute bond with regard to good behaviour of the petitioner, and (iii) that the petitioner shall also give an undertaking to the Court that he shall not indulge in any criminal activity, tamper with the evidence or influence the witnesses. Any violation of the terms and conditions of the



bonds or the undertaking shall lead to cancellation of his bail bonds. The petitioner shall cooperate in the case and be present before the Court on each and every date. Failure to cooperate or being absent on two consecutive dates, without sufficient cause, shall also lead to cancellation of his bail bonds.

8. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

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