

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14126 of 2020

Arising Out of PS. Case No.-7 Year-2020 Thana- MANJHI District- Saran

=====

Rahul Kumar @ Rahul Kumar Yadav, Son of Maya Yadav, Resident of
Village- Chainpur, P.S.- Manjhi, District- Saran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Dr. Rajesh Kumar Singh, Adv.

For the Opposite Party/s : Mr. Humayou Ahmad Khan, APP

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 12-06-2020 Heard learned counsel for the petitioner and learned
APP for the State.

The matter has been taken up through virtual Court
proceeding.

The petitioner has preferred the present application for
grant of bail in a case registered for the offence punishable
under Sections 30, 30(a) of the Bihar Prohibition and Excise
Act, 2016, as amended by the Amendment Act 8 of 2018,
(hereinafter referred to as ‘the Act’).

The prosecution case as per the written report of Gayur Ali
Asad, A.S.I. submitted before the S.H.O., Manjhi Police Station
is to the effect that on 09.01.2020 at 10.00 P.M., during
patrolling, a secret information was received that the petitioner
is indulged in the trade of illicit liquor. Consequently, a raid was



laid, but on seeing the police, the petitioner managed to escape from the scene, though 34.56 litres of Indian Made Foreign Liquor were recovered from the hutment of the petitioner.

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. In fact, the petitioner has no concern with the hutment, hence, the recovery cannot be treated from his conscious physical possession. A statement to that effect has been made in paragraph no.6 of the petition, which reads as under :-

“That neither the plani belongs to the petitioner nor any recovery of illicit liquor has been made from his active possession.”

It is further submitted that the petitioner is languishing in custody since 09.01.2020 and the investigation has already been concluded. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent. Moreover, the seizure has been made by A.S.I. of police which is contrary to the provisions of Section 73(e) of the Act which mandates that the search or seizure can be made by a police officer not below the rank of Sub-Inspector of Police.

Learned APP for the State submits that on the basis of secret information to the effect that the petitioner is indulged in



the trade of illicit liquor, the raid was led when the petitioner was found fleeing away from the scene, leading to seizure of the liquor.

Considering the fact that the investigation has already been concluded and the seizure *prima facie* appears to be made by an officer who is not authorized under the Act coupled with statement made in paragraph no.3 of the petition with regard to criminal antecedent of the petitioner and the said statement has not been controverted by learned counsel for the State, 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 Additional District & Sessions Judge 2nd -cum- Special Judge, Excise, Saran at Chapra, in connection with Manjhi P.S. Case No. 7 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, including one surety given at the time of provisional bail, of the like amount each to the satisfaction of the learned Additional District & Sessions Judge 2nd -cum- Special Judge, Excise, Saran at Chapra, in connection with Manjhi P.S. Case No. 7 of 2020.

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

(Dinesh Kumar Singh, J)

Ashwini/-

U		T	
---	--	---	--

