

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 12086 of 2020

Md. Ashraf Jamal @ Ashraf Jamal (Male), aged about 45 years, son of Late Kamrul Hoda, resident of village-Pipra, Police Station-Manjhagarh, District-Gopalganj, presently the Excise Superintendent, Saharsa

..... Petitioner/s

Versus

The State of Bihar

..... Opposite party

Appearance

For the Petitioner/s : Mr. P.K. Shahi, Sr. Advocate

Mr. Aryan Singh, Adv.

For the State : Mr. Upendra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

3 03.09.2020 Heard learned Senior counsel for the petitioner and learned A.P.P for the State through video conferencing.

The instant application for anticipatory bail has been filed by the petitioner apprehending his arrest in connection with Special Case No. 33 of 2020 arising out of Saharsa Sadar P.S. Case no.39 of 2020 registered under sections 166A, 167 and 120B of the Indian Penal Code and sections 51 and 52 of the Bihar Prohibition and Excise Act, 2016.

As per allegation in the F.I.R, it is stated that a truck with



IMFL was seized for which Saharsa Excise Case No.506 of 2019 was registered under section 30(a) of the Bihar Prohibition and Excise Act, 2016 against several named accused persons. It is further stated that with respect to the said case/occurrence there was an allegation against the petitioner of having taken bribe for saving the accused persons in the said case. An enquiry was conducted and certain shortcomings discovered, the same being that the driver was not made an accused in the said F.I.R., the petitioner had given the incorrect registration number of the truck in the press briefing, there was delay in the prosecution report and the premises had been unsealed.

It is submitted by learned Senior counsel appearing for the petitioner that the petitioner was the Superintendent of Excise and he was not the person who conducted the raid leading to the registration of the Saharsa Excise Case No.506 of 2019. So far as name of the accused persons in the F.I.R. is concerned, the persons who were arrested were named while the driver and others who had managed to escape were also mentioned as other accused who had escaped. It is further submitted that so far as the allegation of giving incorrect registration number of the truck in the press briefing is concerned, no offence would be made out. So far as the delay in prosecution report is concerned, while the occurrence is stated to



have taken place on 13th, in the raid which continued by the Sub-Inspector, not the petitioner herein, some accused persons were arrested on late hours of 14th and the prosecution report was submitted on the 16th. So far as unsealing of the premises is concerned, it was unsealed on the orders of the District Magistrate and in any case the premises happens to be an open piece of land with no construction thereon. The petitioner has no criminal antecedent.

The application for bail is opposed by learned APP for the State.

Having heard learned counsel for the parties and taking into consideration the materials that has transpired in course of investigation together with the nature of allegation, the submissions made on behalf of the petitioner who is the Excise Superintendent, Saharsa and has no criminal antecedent, this Court is inclined to enlarge the petitioner on bail. The petitioner is directed to surrender in the Court below within a period of eight weeks from today and in the event of his arrest or surrender in connection with Special Case No. 33 of 2020 arising out of Saharsa Sadar P.S. Case no.39 of 2020, he will be enlarged on bail on furnishing bail bond of Rs 10,000.- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District and



Sessions Judge-II- cum -Special Judge, Excise, Saharsa, subject to the conditions as laid down in section 438 (2) of Criminal Procedure Code.

(Partha Sarthy, J)

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