

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12885 of 2020

Arising Out of Case No. C1-41 Year-2020 Thana- OFFICIAL COMPLAINT District-Purnea

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Karan Yadav alias Karan Kumar Yadav, male, aged about 33 years, son of
Bhupendra Yadav, Resident of Village-Mohni, P.S.-Kasba, District-Purnea

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Praveen Kumar Agrawal, Advocate

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 09-10-2020

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

2. Heard Mr. Praveen Kumar Agrawal, learned counsel for the petitioner.

3. Though the name of Mr. Parmanand Prasad, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) appears in the list being assigned the brief on behalf of the State and had also been sent the link and as per the information given by the Technical Assistant of the Court, who had talked to him on telephone yesterday, he had assured to appear, but today he did not join the proceedings.

4. In view thereof, the Court has taken assistance of



Mr. Jharkhandi Upadhyay, learned APP-in-charge of the Court.

5. The petitioner apprehends arrest in connection with Case No. C1-41 of 2020 dated 28.01.2020, instituted under Section 30(a) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the 'Act').

6. The allegation against the petitioner is that from outside his house premises, there has been recovery of 4.5 litres of liquor.

7. Learned counsel for the petitioner submitted that recovery besides being of only 4.5 litres is from outside the premises of the house of the petitioner with which he had no connection. Learned counsel submitted that nothing has been recovered from his house. It was further submitted that only because of such recovery from outside his house premises he has been made accused though the petitioner cannot be held responsible for what is found from the place which is not owned by the petitioner or from his conscious possession. It was submitted that the petitioner has no criminal antecedent.

8. Mr. Jharkhandi Upadhyay, learned APP submitted that the recovery is of liquor which is prohibited under the Act in the State of Bihar. However, he did not controvert the fact that recovery as shown in the FIR is from outside the premises



of the house of the petitioner. He further raised the question of maintainability of the application in view of bar of Section 76(2) of the Act.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that the bar of Section 76(2) of the Act may not apply in the present case for the reason that on the basis of the admitted position, recovery is shown from outside the premises of the house of the petitioner.

10. Accordingly, 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 IInd Additional Sessions Judge-cum-Special Judge, Excise, Purnea in C1-41 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.

11 The application stands disposed off in the
aforementioned terms.

(Ahsanuddin Amanullah, J)

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