

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12848 of 2020

Arising Out of PS. Case No.-16 Year-2020 Thana- DIGHWARA District- Saran

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Munna Singh, aged about 28 years, male, son of Sukan Singh, resident of
Village-Laxmipur Kakadhiyan, P.S.-Dighwara, District-Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. B N Mishra, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 07-10-2020

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

2. Heard Mr. B N Mishra, learned counsel for the petitioner and Mr. Sanjay Kumar, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioner apprehends arrest in connection with Dighwara PS Case No. 16 of 2020 dated 21.01.2020, instituted under Sections 272/273 of the Indian Penal Code and 30(a)/38/41 of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the ‘Act’).

4. The allegation against the petitioner, along with four others, is of dealing in illicit liquor and they are said to have fled



away leaving two vehicles when the police intercepted them from which there has been huge recovery of liquor.

5. Learned counsel for the petitioner submitted that except for suspicion of the police, nothing has come to indicate any connection of the petitioner with the recovered liquor. It was submitted that in the FIR itself it has been stated that nobody was apprehended and everybody had fled and from the crowd the police could know the name of the accused, including the petitioner. It was submitted that such naming of the petitioner as accused only on the basis of the name being taken by the crowd is highly tenuous and absolutely unfit to be relied upon and further has no status or value in the eyes of law. Learned counsel submitted that the petitioner has clean antecedent. It was submitted that the petitioner has no connection with the vehicles recovered in any capacity, either as owner or driver or even *khalasi*.

6. Learned APP submitted that the petitioner has been named as accused as he was one of the persons who had run away from the vehicles from which liquor was recovered. However, he could not controvert the fact that the name of the petitioner, as per the FIR itself, has been introduced only on the basis of what was told to the police by the crowd. He also did



not controvert the fact that there was no connection of the petitioner with the two vehicles from which the alleged recovery of liquor has been shown.

7. Learned APP also raised the plea that the petition is not maintainable in view of bar of Section 76(2) of the Act.

8. At this juncture, the Court called upon learned APP to assist on the point that when the so-called recovery is admittedly not from anything to which the petitioner can be connected i.e., the place or vehicles from which it has been recovered or from his conscious possession, which would not attract such bar, he could not answer. Accordingly, the Court finds that the present application cannot be held to be not maintainable.

9. 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 in Dighwara PS Case No. 16 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.

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

(Ahsanuddin Amanullah, J)

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