

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13087 of 2020

Arising Out of PS. Case No.-329 Year-2019 Thana- BIHIA District- Bhojpur

Nanak Yadav @ Nanhak Yadav, aged about 25 years, Male, Son of Kamata Yadav, Resident of Village - Amrai Nawada, P.S.- Bihiya, District - Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Singh, Adv.
For the State : Mr. Zainul Abedin, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 13-10-2020

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

2. Heard Mr. Ashok Kumar Singh, learned counsel for the petitioner and Mr. Zainul Abedin, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioner apprehends arrest in connection with Bihiya PS Case No. 329 of 2019 dated 01.09.2019, instituted under Section 30(a) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the ‘Act’).

4. The allegation against the petitioner and another co-accused is that he ran away from the place of occurrence on seeing



the police and from the place of occurrence, 4 litres of *Mahua* liquor was recovered.

5. Learned counsel for the petitioner submitted that only on suspicion and surmises, he has been made accused. It was submitted that neither there is recovery from the possession or house of the petitioner and further, even the identification by the local *Chaukidar* cannot be relied upon, as in the FIR itself, it is stated that at 9:15 PM at night the police party had gone to the place of occurrence and when they were 100 metres away from the place of occurrence, the accused ran away and could not be apprehended. It was submitted that thus, even the *Chaukidar* identifying the petitioner at almost 9:30 PM in the night and there being no description in the FIR that there was any street light in which the petitioner was recognized, the allegation is only on mere suspicion with nothing to connect the petitioner to the recovered liquor. Learned counsel submitted that the petitioner does not bear any criminal antecedent.

6. Learned APP submitted that the *Chaukidar* had identified the petitioner. However, he was not able to controvert the fact that in the F.I.R. itself, it is stated that the police party was 100 metres away from the place of occurrence and it was past 9:15



PM and also that there is no mentioning that there was any light in which the accused were identified.

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 4th Additional Sessions Judge-cum-Special Judge, Excise, Bhojpur at Arrah in Bihiya PS Case No. 329 of 2019, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973. Further (i) 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.

(Ahsanuddin Amanullah, J)

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