

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19719 of 2020

Arising Out of PS. Case No.-906 Year-2019 Thana- KANTI THARMAL POWER District-
Muzaffarpur

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RAM BABU SAH, Son of Parmanand Sah @ Bhikhari Sah, Resident of
Village - Sain Chhapra Devanand, P.S.- Kanti, Distt - Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mukund Mohan Jha, Adv.
For the Opposite Party/s : Mr. J. N. Thakur, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 07-07-2020 The Court proceeding has been conducted through
virtual mode.

Since the physical Court is not functional due to the
present pandemic, Covid-19, the matter has been listed with
defects.

Learned counsel for the petitioner undertakes to
remove the defects within a period of three weeks on
resumption of physical court proceeding.

In case of non-removal of the defects within the
undertaken period, the office will place the matter before the
bench.

Heard learned counsel for the petitioner and learned
APP for the State.



The petitioner is apprehending his arrest in connection with a case registered for the offence punishable under Section 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 Abhay Kumar, A.S.I., Kanti Police Station submitted before the S.H.O., Kanti Police Station is to the effect that on 19.12.2019, on the basis of confidential information, 54.105 litres of Indian Made Foreign Liquor were recovered from the agricultural field of co-accused, Ashok Kumar. The petitioner is the father of co-accused, Ashok Kumar. In the FIR, he was not named. The prayer for anticipatory bail of the petitioner was rejected vide order dated 22.01.2020 and thereafter, in the FIR correction was made vide order dated 05.02.2020 and accused no.2's name, Lal Babu Sah has been corrected as Ram Babu Sah.

It is submitted by learned counsel for the petitioner that the said correction has been made at such belated stage and the seizure list suggests the recovery has been made from the agricultural field of co-accused, Ashok Kumar which is an open area, hence, the said recovery cannot be treated from the



conscious physical possession of the petitioner. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP for the State submits that the recovery of liquor has been made from the agricultural field of the son of the petitioner.

Considering the fact that the seizure list suggests recovery being made from the agricultural field of co-accused, Ashok Kumar, which is an open area and statement made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, let the petitioner above named be released on anticipatory bail for the present provisionally for a period of three months, in the event of arrest or surrender before the learned Court below from today, on furnishing one surety to the satisfaction of the learned Special Judge, Excise Act, Muzaffarpur, in connection with Kanti P.S. Case No.906 of 2019, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

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 Special Judge, Excise Act, Muzaffarpur , in connection with Kanti P.S. Case No.906 of 2019.

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.

Accordingly, the present application stands disposed of.

(Dinesh Kumar Singh, J)

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