

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20196 of 2020

Arising Out of PS. Case No.-212 Year-2019 Thana- GOVERNMENT OFFICIAL COMP.
District- Bhagalpur

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Basuki Goswami Son of Bhagirath Goswami Residence of Village -
Mohanpur, P.S.- Goradih, District - Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Manoj Kumar Jha
For the Opposite Party/s : Mr.Dr. Kumar Uday Pratap

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 08-07-2020 The matter has been taken up through virtual Court proceeding.

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

Since the physical court proceeding is non-functional, due to present pandemic, COVID-19, the matter is listed with defects.

Learned counsel for the petitioner undertakes to remove the defects within three weeks of resumption of physical court proceeding. In the eventuality of non-removal of defects within undertaken period, the office will place the matter before the bench.

The petitioner is apprehending his arrest in a case



registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016 as amended by Act 8 of 2018.

The prosecution case, as per the written report submitted by Sub-Inspector, Excise, Goradih, Bhagalpur submitted to the Additional Sessions Judge -cum- Special Judge, Bhagalpur, is to the effect that on 26.09.2019 during vehicle check in Village – Machhipur, signal was given of the one motorcycle by the informant to stop, but the person ridding the motorcycle escaped from the scene after leaving behind the motorcycle and 40 litres country made liquor kept in a sack on the back of the motorcycle were recovered.

It is submitted by learned counsel for the petitioner that the seizure list and the prosecution report suggest that the petitioner escaped from the scene whereas in the forwarding letter, it has been mentioned that the petitioner has been apprehended, which clouds the entire prosecution case and a statement has been made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP submits that the recovery has been made from the motorcycle of the petitioner.

Considering the fact that the petitioner admitted that



the motorcycle belongs to him, the anticipatory bail application is not maintainable in view of embargo under Section 76(2) of Bihar Prohibition and Excise Act, 2016 and the ratio laid down by the Full Bench of this Court in the case of Ram Vinay Yadav Vs. State of Bihar, reported in 2019(2) PLJR 1089.

Let the learned Court below consider the prayer for regular bail of the petitioner, if the petitioner surrenders before the learned Court below within a period of six weeks from today in connection with Excise Case No. 212 of 2019, pending in the Court of learned Additional Sessions Judge-II -cum- Special Judge, Excise, Bhagalpur.

Accordingly, this application is disposed of.

(Dinesh Kumar Singh, J)

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