

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20055 of 2020

Arising Out of PS. Case No.-261 Year-2019 Thana- NAANPUR District- Sitamarhi

1. Anand Kumar @ Chhotu S/o Late Nathuni Paswan Resident of Village- Birar, P.S.- Nanpur, Distt- Sitamarhi
2. Rakesh Jha @ Chhotu @ Rakesh Kumar Jha S/o Pramod Jha Resident of Village- Birar, P.S.- Nanpur, Distt- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dinesh Jha, Advocate

For the Opposite Party/s : Mr. Uma Shankar Pd. Singh, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 17-08-2020 The Court proceeding has been conducted through virtual mode.

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

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

Learned counsel for the petitioners 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 petitioners are apprehending arrest in a case registered for the offences punishable under Sections 272, 273, 414 of the Indian Penal Code and Sections 30(a) and 38 of the Bihar Prohibition and Excise Act, 2016 as amended by Act 8 of 2018.

The prosecution case, as per the written report of S.I., Arvind Kumar submitted to the Station House Officer, Nanpur Police Station, is to the effect that on 20.07.2019 at 10.00 P.M. during patrolling, he received a secret information that co-accused Umesh Jha is selling liquor near his house, consequently, raid was laid and 48 litres of Indian made foreign liquor were recovered from the bush situated in the land of Arun Jha near the house of co-accused Umesh Das and two persons were apprehended, who disclosed their name as Md. Samir and Rajnish Kumar Choudhary. The apprehended co-accused persons disclosed the name of the petitioners, who managed to escape from the scene.

It is submitted by learned counsel for the petitioners that the recovery has not been made from conscious physical possession of the petitioners rather the recovery has been made from an open area and along with the liquor two motorcycles were seized out of which one of the motorcycles



belongs to petitioner no.2. In fact, petitioner no. 2 parked his motorcycle near the house of co-accused Umesh Jha but there is no recovery from the said motorcycle and only on the basis of suspicion, the motorcycle of petitioner has been seized. A statement has been made in paragraph 3 of the petition that the petitioners are not having any criminal antecedent.

Learned APP submits that the petitioners managed to escape from the scene and motorcycle of petitioner no. 2 has been seized from the place of seizure.

Considering the fact that there is no recovery from the conscious physical possession of the petitioners or from the motorcycle of petitioner no. 2 and statement being made in paragraph 3 of the petition that the petitioners are not having any criminal antecedent, let the petitioners above named be released on provisional anticipatory bail for three months, in the event of arrest or surrender before the learned Court below within a period of 6 weeks from today, on furnishing one surety to the satisfaction of the learned Additional Sessions Judge-II -cum- Special Judge, Excise Act, Sitamarhi in connection with Nanpur P.S. Case No. 261 of 2019.

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 petitioners which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional anticipatory bail of the petitioners will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10,000/- (ten thousand) each with two sureties, including one surety given at the time of provisional bail of the like amount each to the satisfaction of the learned Additional Sessions Judge-II -cum- Special Judge, Excise Act, Sitamarhi in connection with Nanpur P.S. Case No. 261 of 2019, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

The learned Court below will be at liberty to further extend the period of provisional anticipatory bail if the court proceeding in physical mode will not resume in next three months.

Accordingly, the application stands disposed of.

(Dinesh Kumar Singh, J)

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