

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20236 of 2020

Arising Out of PS. Case No.-499 Year-2019 Thana- SIRDALA District- Nawada

-
1. Shankar Chaudhary Son of Late Mahendra Chaudhary Resident of Village - Jandhaul, P.S.- Sirdala, District- Nawada
 2. Chhotu Chaudhary Son of Parmeshwar Chaudhary Resident of Village - Jandhaul, P.S.- Sirdala, District- Nawada

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Krishna Deo Raj
For the Opposite Party/s : Mr.Bishweshwar Ram

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

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

Learned counsel for the petitioners submits that petitioner no. 1, Shankar Chaudhary has been arrested and his anticipatory bail application has become infructuous and accordingly, it is disposed of being infructuous.

Heard learned counsel for the petitioner no. 2 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 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 petitioner no. 2 is apprehending 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 of S.I. -cum- S.H.O., Ashish Kumar Mishra, Sirdala Police Station submitted to Additional District & Sessions Judge-II -cum- Special Judge, Nawada, is to the effect that on 16.12.2019 at 7.00 P.M. during evening patrolling a confidential information was received that the country made liquor is being manufactured, consequently, a raid was laid on the embankment of the river but on seeing the police party, petitioner no. 2 escaped from the scene and subsequently, his identity was disclosed by local Chaukidar. From the embankment of river, five litres of country made Mahua liquor and 500 kgs of fermented Mahua were recovered.

It is submitted by learned counsel for the petitioner that the recovery has not been made from conscious physical possession of the petitioner no. 2 rather the same has been made



from embankment of the river. The prosecution report does not suggest that place of seizure belongs to petitioner no. 2 and a statement has been made in paragraph 3 of the petition that the petitioner no. 2 is not having any criminal antecedent.

Learned APP submits that the recovery has been made from manufacturing site of petitioner no. 2.

Considering the fact that the recovery has been made from an open area and a statement has been made in paragraph 3 of the petition that the petitioner no. 2 is not having any criminal antecedent, let the above named petitioner no. 2 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, Nawada in connection with Sirdala P.S. Case No. 499 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 petitioner no. 2 which may be transmitted by such surety to the learned Court concerned through e-mode.



The provisional anticipatory bail of the petitioner no. 2 will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10,000/- (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 Additional Sessions Judge-II -cum- Special Judge, Nawada in connection with Sirdala P.S. Case No. 499 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 is disposed of.

(Dinesh Kumar Singh, J)

DKS/-

U		T	
---	--	---	--

