

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16056 of 2020

Arising Out of PS. Case No.-416 Year-2019 Thana- DESARI District- Vaishali

VIKASH KUMAR Son of Arun Rai Resident of Village-Nayagaon, Bishhar
Ashthan, Police Station-Desari, District-Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Amit Kumar

For the Opposite Party/s : Mrs. Asha Devi

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 12-06-2020 The matter has been taken up through virtual court
proceeding.

Heard learned counsel for the petitioner and the State.

The petitioner, who is languishing in custody since
26.12.2019, has preferred the present application for grant of
bail in a case registered for the offences punishable under
Section 30(a) of the Bihar Prohibition and Excise Act, 2016, as
amended by Amendment Act 8 of 2018 (hereinafter referred to
as ‘the Act’).

The prosecution case, as per the written report of
Manoj Kumar Thakur, A.S.I. submitted to the S.H.O., Mahnar
Police Station is to the effect that on 25.12.2019, during vehicle
check, two motorcycles were intercepted, and 70 litres of
country made liquor from one motorcycle and and 30 litres of



country made liquor from the other motorcycle were recovered. The petitioner was the owner of one of the seized motorcycles. Moreover, seizure of liquor has been made by a police officer of the rank of A.S.I., which is contrary to the mandate of Section 73(e) of the Act.

It is submitted by learned counsel for the petitioner that the petitioner has maliciously been framed in the present case and the recovery has not been made from the conscious physical possession of the petitioner. Investigation has already been concluded. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP submits that the petitioner is the owner of one of the seized motorcycles from which, the seizure was made and the petitioner was apprehended from the spot.

Considering the fact that the investigation has already been concluded, recovery of the liquor has been made by an A.S.I. rank of the police officer, period under custody and the petitioner is not having criminal antecedent, let the petitioner above named be released on bail for the present provisionally for a period of three months on furnishing one surety to the satisfaction of the learned Additional Sessions Judge-II cum



Excise Court, Vaishali at Hajipur in connection with Desari P.S.
Case No. 416 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 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 Additional Sessions Judge-II cum Excise Court, Vaishali at Hajipur in connection with Desari P.S. Case No. 416 of 2019.

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

(Dinesh Kumar Singh, J)

Amrendra/-

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

