

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15995 of 2020

Arising Out of PS. Case No.-1425 Year-2019 Thana- AHIYAPUR District- Muzaffarpur

1. MD. ADIL S/o Achdhan R/o village- Hindore, P.S.- Sahshwan, District-Vadau (U.P.)
2. Md. Mushlim S/o Kararu R/o village- Hindore, P.S.- Sahshwan, District-Vadau (U.P.)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ravi Ranjan

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 04.12.2019, has preferred the present application for grant of bail in a case registered for the offences punishable under Sections 272 and 273 of the IPC, 1860 and Sections 30(a), 36 and 38 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, A.S.I. of Police, submitted to the S.H.O.,



Ahiyapur Police Station is to the effect that on 03.12.2019, during patrolling, the informant was informed by the S.H.O., that one truck, loaded with illicit liquor, is parked near the house of one Amar Nath. Consequently, raid was laid and the petitioners, being the driver and cleaner of the truck in question, were apprehended. From the truck in question, 25.29 litres of Indian Made Foreign Liquor were recovered.

Learned counsel for the petitioner submits that only on the basis of suspicion, the petitioners were apprehended. The petitioners are not having any concern with the truck in question, statement to that effect has been made in paragraph no. 8 of the petition, which reads as follows:-

“That the no incriminating article has been recovered from the possession of the petitioner and the police has wrongly shown the recovery of 25.290 litter foreign liquor from a Truck and the Truck does not belong to the petitioner and the police has wrongly shown the petitioners as driver and Khalashi.”

It is further submitted that seizure has been made by a police officer of the A.S.I. rank which is contrary to the mandate of Section 73(e) of the Act and the investigation has already been concluded. A statement has been made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent.



Learned APP submits that the petitioners, being the driver and cleaner of the truck in question, were apprehended from the place of seizure.

Considering the fact that seizure has been made by A.S.I. rank police officer, who is not authorized under the Act, investigation has already been concluded, period under custody, the petitioners having no criminal antecedent and the contention of the petitioners that they are not having any concern with the truck in question, which is not being controverted by learned counsel for the State, let the petitioners 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 Special Judge Excise Act, Muzaffarpur in connection with Ahiyapur P.S. Case No. 1425 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 bail of the petitioners 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 learned Special Judge Excise Act, Muzaffarpur in connection with Ahiyapur P.S. Case No. 1425 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/-

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