

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20203 of 2020

Arising Out of PS. Case No.-560 Year-2019 Thana- MOTIHARI MUFASIL District- East
Champaran

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Roshan Kumar @ Raushan Kumar Son of Chunnu Mukhiya Resident of
Village - Harkaina, P.S.- Muffassil Motihari, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Dilip Kumar Tondon
For the Opposite Party/s : Mrs.Pushpa Sinha

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 08-07-2020 The Court proceeding has been conducted through
virtual mode.

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 offences punishable under Sections 272, 273/34 of the Indian Penal Code and Sections 30(a) and 30(c) 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., Kanchan Bhaskar submitted to the Station House Officer, Muffasil Police Station, is to the effect that on 01.12.2019, a confidential information was received that in village – Harkaina country made liquor is being sold, consequently, a raid was laid in the house of eight persons including house of the petitioner. From the house of the petitioner, 34.125 litres of Indian Made Foreign Liquor were recovered and from the house of the other accused also, Indian Made Foreign Liquor were recovered.

It is submitted by learned counsel for the petitioner that the petitioner resides in Delhi and recovery has been made from joint family house of the petitioner. The arrest of the petitioner will jeopardize his academic career 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 house of the petitioner.

Considering the fact that the recovery has been made



as claimed by the petitioner from joint family house, 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, Page-1089, but considering the quantity of recovered liquor and statement being made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent, it is a case for consideration of prayer for regular bail by the learned Court below, if the petitioner surrenders before the learned Court below within a period of ten weeks from today in connection with Muffasil P.S. Case No. 560 of 2019, pending in the Court of learned 9th Additional District & Sessions Judge -cum- Special Judge, Excise, East Champaran, Motihari.

Let the learned Court below consider to dispose of the bail application of the petitioner preferably on the same day.

Accordingly, this application is disposed of.

(Dinesh Kumar Singh, J)

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