

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20251 of 2020

Arising Out of PS. Case No.-9 Year-2020 Thana- MITHANPURA District- Muzaffarpur

RAJESH KUMAR, S/o Vijay Kumar Bhagat Resident of Kanhauli Khadi
Bhandar, Kanhauli, P.O.- Ramna, P.S.- Mithanpura, Distt- Muzaffarpur, Bihar,
Pin- 842002.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Niranjana Kumar, Adv.

For the Opposite Party/s : Mr. Mritunjay Kumar Nirala, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 09-07-2020 The Court proceeding has been conducted through
virtual mode.

Since the physical Court is not functional due to the
present pandemic, Covid-19, the matter has been listed with
defects.

Learned counsel for the petitioner undertakes to
remove the defects within a period of three weeks on
resumption of physical court proceeding.

In case of non-removal of the defects within the
undertaken period, the office will place the matter before the
bench.

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

The petitioner apprehends his arrest in a case



registered for the offences punishable under Sections 30(a), 32(2), 41(1) of the Bihar Prohibition and Excise Act, 2016, as amended by the Amendment Act 8 of 2018.

The prosecution case as per the self statement of S.I. Vijay Kumar Sinha, recorded on 08.01.2020 at 2.25 P.M. is to the effect on the same date, during patrolling, a confidential information was received that Rakesh Kumar, the petitioner along with co-accused, Kunal, Balendra Sah and Monu Kumar are indulged in the trade of illicit liquor. Consequently, a raid was laid when on seeing the police, the accused persons started fleeing away from the scene, leaving behind a pickup van and a motorcycle, but on chase being made, one persons was apprehended who disclosed his name as, Monu Kumar and he disclosed that in the parked pickup van, liquor has been loaded and the motorcycle is being used to facilitate the delivery of illicit liquor. On frisking, from the pickup van total, 192.600 litres of Indian Made Foreign Liquor were recovered. Co-accused, Monu Kumar further suggested the name of other accused persons, including the petitioner who escaped from the scene.

It is submitted by learned counsel for the petitioner that admittedly, the name of the petitioner sprang up on the



statement of co-accused, Monu Kumar and there is no recovery from the conscious physical possession of the petitioner. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP for the State submits that the petitioner has been named by the apprehended co-accused, as a person who escaped from the scene on arrival of the police.

Considering the fact that the name of the petitioner sprang up on the basis of confessional statement of co-accused, Monu Kumar and the material on record does not suggest any recovery of liquor from the conscious physical possession of the petitioner coupled with statement made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, let the petitioner above named be released on anticipatory bail for the present provisionally for a period of three months, in the event of arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing one surety to the satisfaction of the learned Special Judge, Excise Act, Muzaffarpur, in connection with Mithanpura P.S. Case No. 09 of 2020, subject to the conditions as laid down under Section 438(2) of the Cr.P.C

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 the learned Special Judge, Excise Act, Muzaffarpur, in connection with Mithanpura P.S. Case No. 09 of 2020.

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

Accordingly, the present application stands disposed of.

(Dinesh Kumar Singh, J)

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