

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20195 of 2020

Arising Out of PS. Case No.-98 Year-2019 Thana- KATRA District- Muzaffarpur

VIKASH KUMAR @ BABUL S/o Late Praveen Singh Resident of Village-
Dhanaur, P.S.- Katra, Distt- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ravi Ranjan

For the Opposite Party/s : Mr.Ram Bilash Roy Raman

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 09-07-2020 The matter has been taken up through virtual court proceeding.

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

Learned counsel for the petitioner undertakes to remove the defects within three weeks of resumption of functioning of the court in physical mode.

If the defects are not removed within the said period, the office will again place the matter on board.

Heard learned counsels for the petitioner and the State.

The petitioner, who is apprehending his arrest, has preferred the present application for grant of bail in a case



registered for the offences punishable under Sections 272, 273 and 414 of the IPC and Sections 30(a) and 38(1) 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 self statement of Sikandar Kumar, S.I.-cum-S.H.O. of Katra Police Station, recorded on 28.04.2019 at 5.10 A.M., is to the effect that on 27.04.2019 at about 10.05 P.M., the informant received an information that the villagers of Shivdashpur Basant have apprehended certain accused persons with illicit liquor, whereupon the police reached on the spot when apprehended accused persons disclosed their name as Ashish Kumar @ Bittu Thakur and Bhola Mahto, and they also disclosed the name five other accused persons including the petitioner, who escaped from the scene.

It is submitted by learned counsel for the petitioner that recovery has not been made from the conscious physical possession of the petitioner and the petitioner was not apprehended from the place of seizure. No offence under Section 38(1) of the Act is made against the petitioner since the said provision has been deleted by Amendment Act 8 of 2018. Moreover, similarly situated co-accused Sujit Mahto @ Sujit



Kumar Mahto has been granted anticipatory bail by a Co-ordinate bench of this Court, vide order dated 20.11.2019 passed in Cr. Misc. No. 74876 of 2019. A statement has been made in paragraph no.3 of the petition that the petitioner is accused in two other cases, which are not registered under the provisions of Excise Act.

Learned APP submits that the name of the petitioner sprang up on the confession of apprehended co-accused persons.

Considering the fact that recovery has not been made from the conscious physical possession of the petitioner and similarly situated co-accused person has been granted anticipatory bail by a Co-ordinate bench of this Court, let the petitioner above named be released on anticipatory bail for the present provisionally for a period of three months on his arrest and surrender before the learned Court below within a period of three weeks from today on furnishing one surety to the satisfaction of the learned Special Judge, Excise, Muzaffarpur in connection with Katra P.S. Case No. 98 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 anticipatory 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 learned Special Judge, Excise, Muzaffarpur in connection with Katra P.S. Case No. 98 of 2019.

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 is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

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