

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19502 of 2020

Arising Out of PS. Case No.-24 Year-2020 Thana- AKHODHIGOLA District- Rohtas

Govind Kumar Gupta @ Govind Sah Son of Sheoshankar Sah Resident of
Village - Gamahariyan, P.S.- Akodhigola, Distt.- Rohtas.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bijay Shankar Choubey, Advocate

For the Opposite Party/s : Mr.Ram Bilas Roy Raman, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 15-06-2020 The matter has been taken up through virtual Court proceeding.

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

The present application has been preferred on
behalf of the petitioner for grant of bail in connection with a
case registered for the offence punishable under Section 30(a) of
Bihar Prohibition and Excise Act, 2016, as amended by Act 8 of
2018 (hereinafter referred to as the 'Act').

The prosecution case, as per the written report of
A.S.I., Anil Kumar Singh, Akodhigola P.S. submitted to the
Station House Officer, Akodhigola P.S., is to the effect that on



11.02.2020 during raid as soon as he along with the police personnel reached near the house of the petitioner, the petitioner and co-accused Ranjan Kumar and Chandan Kumar, on seeing the police party, started fleeing away, but on chase being made, petitioner was apprehended and others managed to escape from the scene. Therefore, the house of the petitioner was raided and from his house, altogether 164.160 litres of Indian Made Foreign Liquor were recovered, leading to registration of the case.

It is submitted by learned counsel for the petitioner that the recovery has been made from joint family house. The petitioner is languishing in custody since 11.02.2020 and 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 for the State submits that the recovery has been made from the house of the petitioner.

Considering the fact that Section 73(e) of the Act mandates the search and seizure by a Police Officer not below the rank of Sub-Inspector of Police, but in the present case, the seizure has been made by Assistant Sub-Inspector of Police and hence, the seizure gets vitiated, period under custody and



investigation already being concluded, coupled with the 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 bail for the present provisionally for a period of three months on furnishing one surety to the satisfaction of the learned 2nd Additional District & Sessions Judge -cum- Special Judge, Excise, Rohtas, Sasaram in connection with Akodhigola P.S. Case No. 24 of 2020.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond upon 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 2nd Additional District & Sessions Judge -cum- Special Judge, Excise, Rohtas, Sasaram in connection with Akodhigola P.S. Case No. 24 of 2020.



The provisional bail of the petitioner will be confirmed after a certificate on affidavit being filed on behalf of the petitioner before the learned Court below to the effect that all the defect/s, as pointed out by the Stamp Reporter, have been removed.

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

(Dinesh Kumar Singh, J)

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