

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19529 of 2020

Arising Out of PS. Case No.-15 Year-2019 Thana- HUSSAINGANJ District- Siwan

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DHANANJAY KUMAR YADAV S/o Late Subhash Yadav Resident of
Village-Ghosopali (Habibnagar), P.S.-Hussainganj, District-Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ajay Kumar Pandey

For the Opposite Party/s : Mr. J.N. Thakur, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 16-06-2020 The matter has been taken up through virtual Court proceeding.

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

The petitioner is languishing in jail since 6.3.2019 in a case registered for the offences punishable under Sections 30(a), 36 and 41(1) of the Bihar Prohibition and Excise Act, 2016 as amended by Act 8 of Amendment Act, 2018 (hereinafter referred to as the Act).

The prosecution case, as per the written report of Jahangir Khan, ASI of Police of Hussainganj police station submitted to



the SHO, Hussainganj police station, is to the effect that on 18.1.2019, during evening patrolling, confidential information was received that Dhananjay Kumar Yadav (petitioner) and co-accused Pappu Yadav have concealed liquor underneath a road bridge. Consequently, raid was laid and recovery of 146.880 litres of country made liquor was made, leading to registration of FIR.

It is submitted by learned counsel for the petitioner that the recovery has been made from an open area. The investigation has already been concluded. The petitioner is accused in one another case apart from the present one of the same nature.

Learned APP submits that raid was laid and recovery of 146 litres of country made liquor was made but the petitioner managed to escape from the scene.

Considering the fact that the Act being stringent one which specifically lays down under Section 73(e) thereof, that the search and seizure can only be made by a police officer not below the rank of Sub Inspector of Police, but in the present case, admittedly, search and seizure has been made by an officer of the rank of Assistant Sub Inspector of Police and hence, the very search and seizure gets clouded and the period in custody, 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 Additional Sessions Judge II-cum-Special Judge, Excise, Siwan in connection with Hussainganj P.S. Case No. 15 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 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 of the like amount each to the satisfaction of the learned Additional Sessions Judge II-cum-Special Judge, Excise, Siwan including one surety given at the time of provisional bail.

The provisional bail of the petitioner will be confirmed after filing of a certificate on affidavit 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 already been removed.

The learned Court below will be at liberty to extend



the period of provisional bail further if the Court proceeding in
physical mode is not resumed in three months.

(Dinesh Kumar Singh, J)

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