

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19534 of 2020

Arising Out of PS. Case No.-7 Year-2020 Thana- VISHNUPAD District- Gaya

MD. FAISAL ALAM @ FAISAL ALAM Son of Md. Khurshid Alam
Resident of Mohalla-Near Hindi School, Gewal Bigha, P.S-Rampur, District-
Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Sinha
For the Opposite Party/s : Mr. Binod Kumar APP

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 8.1.2020 in a case registered for the offences punishable under Section 414 of the IPC and Section 30(a) of the Bihar Prohibition and Excise Act, 2016 as amended by Act 8 of Amendment Act, 2018 of the IPC.

The prosecution case, as per the written report of S.I. Rakesh Kumar Singh submitted to the SHO, Bishnupad Police Station, is to the effect that on 7.1.2020, during patrolling, one Bajaj Piaggio public carrier auto rickshaw was intercepted, from which, total 153.00 litres of country made liquor were



recovered. The petitioner was driving the vehicle in question.

It is submitted by learned counsel for the petitioner that the recovery was not made from the conscious physical possession of the petitioner and the petitioner was not aware about the liquor being carried by the passenger in the vehicle in question which is a public carrier. Statement has been made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent. The investigation has already been concluded.

Learned APP submits that the recovery has been made from the auto rickshaw which was being driven by the petitioner.

Considering the fact that the recovery has not been made from the conscious physical possession of the petitioner, investigation has already been concluded, period in custody coupled with the fact 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 Special Excise Judge, Gaya in connection with Vishnupad P.S. Case No. 7 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 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 Special Excise Judge, Gaya 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 further extend the period of provisional bail if the Court proceeding in physical mode is not resumed in three months.

(Dinesh Kumar Singh, J)

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