

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19845 of 2020

Arising Out of PS. Case No.-12 Year-2020 Thana- BARAULI District- Gopalganj

NAWAL KISHOR BHAGAT Son of Late Bacha Bhagat Resident of Village-
Rupanchap, P.S.- Barauli, District- Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dilip Kumar Tondon

For the Opposite Party/s : Mr. Ashok Kumar

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 22-06-2020 The present petition has been taken up for consideration through the mode of Video Conferencing in view of the prevailing situation on account of COVID-19 Pandemic.

At the outset, the petitioner undertakes to remove all the defects, pointed out by the office, immediately within a period of four weeks of assumption of normalcy and commencing of physical functioning of the Sections of this Court.

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

The petitioner seeks regular bail in connection with Barauli PS case no. 12 of 2020 instituted for the offence punishable under Section 30(a) of Bihar Prohibition and Excise (Amendment) Act, 2018.

The case of the prosecution in brief is that the informant, who is the S.I. of Barauli P.S., along with other police force were on



patrolling duty on 12.01.2020 and while the police force had reached Mirzapur and were checking vehicles, they received information that the petitioner had kept illegal wine in the bush at village Rupanchhap and was selling the same. It is further alleged that after the police force had reached the said place and had conducted search, 42.840 liters of illicit wine was recovered, however the accused persons had fled away and upon inquiry from the villagers, the police force came to know that the person who had fled away is the petitioner herein.

The learned counsel for the petitioner has submitted that the petitioner is innocent, he has been falsely implicated in the present case and is having a clean antecedent. It is further submitted that a bare perusal of the seizure list clearly shows that the recovery of illicit liquor has been made from the bushes situated towards the north of the bridge over the canal going from Rupanchhap towards Semaria under the Barauli PS and there is no whisper in the seizure list with regard to the illicit liquor being recovered from the petitioner herein, hence the impugned order dated 23.04.2020, passed by the learned Additional District and Sessions Judge-II, Gopalganj, rejecting the prayer of the petitioner for grant of bail is perverse, illegal and amounts to dereliction in discharge of his judicial duties resulting in violation of the fundamental rights of the petitioner enshrined under Article 21 of the Constitution of India. It is further submitted that there is violation of Section 100 Cr.P.C. while preparing the seizure list, hence the seizure is also illegal and void



and lastly, it is submitted that the petitioner is unnecessarily being kept in custody since 19.02.2020.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioner, this Court finds that there is no whisper in the seizure list about recovery of illicit liquor from the petitioner herein and moreover, the petitioner has been detained in custody merely on suspicion, even though there is no concrete material on record to connect him with the alleged crime. Accordingly, the abovenamed petitioner is directed to be released on regular bail on furnishing bail bond of Rs. 10,000/- (Rs. Ten thousand) with two sureties of the like amount each to the satisfaction of Additional District and Sessions Judge-II-cum-Special Judge, Excise Act, Gopalganj in connection with Barauli PS case no. 12 of 2020.

(Mohit Kumar Shah, J)

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