

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21101 of 2020

Arising Out of PS. Case No.-161 Year-2020 Thana- GOVERNMENT OFFICIAL COMP.
District- Gaya

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MUKESH KUMAR Son of Sri Upendra Yadav Resident of Village - Sherpur,
P.S.- Sherghati, Distt.- Gaya.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Arvind Kumar Singh
For the Opposite Party/s : Mr.A.G.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 29-06-2020 The matter has been taken up through virtual Court proceeding.

It is submitted by learned counsel for the petitioner that the petitioner has preferred the bail in Excise Case No. 161 of 2020, but it has wrongly been mentioned in the prayer portion as Imamganj P.S. Case No. 161 of 2020.

As prayed for, learned counsel for the petitioner is permitted to make correction on resumption of court proceeding in physical mode.

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

Learned counsel for the petitioner undertakes to



remove the defect/s within a period of three weeks on resumption of physical court proceeding.

In case of non-removal of the defect/s within the undertaken period, the office will place the matter before the Bench.

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

The petitioner has preferred the present application for grant of bail in a case registered for the offences punishable under Sections 30(a), 56(b) of the Bihar Prohibition and Excise Act, 2016, as amended by the Amendment Act 8 of 2018, (hereinafter referred to as 'the Act').

The prosecution case as per the prosecution report submitted by the Inspector Excise, Gaya is to the effect that from the motorcycle of the petitioner, 50 litres of country made liquor has been recovered.

It is submitted by learned counsel for the petitioner that the recovery is not from the conscious physical possession of the petitioner and the petitioner is languishing in custody since 14.03.2020 and the 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 said recovery has been made from the possession of the petitioner.

Considering the fact that the investigation has already been concluded, no case under Section 56(b) of the Act is made out since Section 56 of the Bihar Prohibition and Excise Act has been substituted by Amendment Act 8 of 2018, which deals with the things liable for confiscation, hence, no offence under Section 56(b) is made out coupled with 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 Special Judge, Excise Act, Gaya, in connection with Imamganj P.S. Case No. 161 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, including one surety given at the time of provisional bail, of the like amount each to the satisfaction of the learned Special Judge, Excise Act, Gaya, in connection with Imamganj P.S. Case No. 161 of 2020.

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

Accordingly, the present application stands disposed of.

(Dinesh Kumar Singh, J)

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