

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20017 of 2020

Arising Out of PS. Case No.-63 Year-2020 Thana- DARAUNDA District- Siwan

YADULAL CHOWDHARY S/O Late Chandrama Chowdhry R/O Village -
Dibbi, P.S. - Daraunda, District - Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 26-06-2020 The matter has been taken up through virtual court proceeding.

The present application has been listed with defects. The office is expected to list the case on board, if the defects are not removed within a period of three weeks after resumption of court proceeding in physical mode.

Heard learned counsel for the petitioner and the State.

The petitioner, who is languishing in custody since 20.03.2020, has preferred the present application for grant of bail in a case registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016, as amended by Amendment Act 8 of 2018, hereinafter referred to as 'the Act' and Section 38 of the Bihar Prohibition Act, 2016.

The prosecution case, as per the written report of Lalit



Kumar, A.S.I. of Police submitted to the S.H.O., Daraunda Police Station is to the effect that on 10.03.2020 at 8.30, while the informant was on patrolling duty, the informant was informed by the S.H.O. of Daraunda Police Station to the effect that in the backyard of the house of Co-accused Jaglal Chaudhary, Pawan Chaudhary, Mala Devi and the petitioner, Yadulal Chowdhary, illicit liquor has been stored, consequently raid was laid, leading to recovery of total 39 litres of Indian Made Foreign Liquor and 5 litres of country made liquor from the bamboo clump situated in the backyard of the house of co-accused Jaglal Chaudhary. It is alleged that on seeing the police, the petitioner escaped from the place of seizure.

Learned counsel for the petitioner submits that recovery has not been made from the conscious physical possession of the petitioner and co-accused Jaglal Chaudhary, from whose backyard of the house, recovery has been made, has been granted bail vide order dated 24.06.2020, passed in Cr. Misc. No. 19584 of 2020. It is further submitted that the investigation has already been concluded and the petitioner is languishing in custody since 20.03.2020. A statement has been made in paragraph no.3 of the petition that the petitioner is accused in two other cases, in which he is on bail.



Learned APP submits that on seeing the police, the petitioner escaped from the place of seizure.

Considering the fact seizure has been made by an officer below the rank of S.I., who is not authorized to make such seizure under Section 73(e) of the Act, investigation has already been concluded and period under custody, coupled with the fact that case has been registered under Section 38 of the Bihar Prohibition and Excise Act, 2016 which has been deleted by Amendment Act 8 of 2018, 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 Sessions Judge-cum-Special Judge, Siwan in connection with Daraunda P.S. Case No. 63 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 learned Sessions Judge-cum-Special Judge, Siwan in connection with Daraunda P.S. Case No. 63 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.

(Dinesh Kumar Singh, J)

Amrendra/-

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