

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21151 of 2020**

Arising Out of PS. Case No.-177 Year-2020 Thana- BRAHMPUR District- Buxar

Babloo Rajak Son of Gobardhan Rajak Resident of Village- Sowar, P.S.-
Krishnabrahma, District- Buxar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ravi Shankar Pathak, Advocate

For the Opposite Party/s : Mr.Rajesh Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER**

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

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

Since the physical court proceeding is non-functional the matter is listed with defects.

Learned counsel for the petitioner undertakes to remove the defects within three weeks of resumption of physical court proceeding. In the eventuality of non-removal of defects the office will place the matter before the bench.

The petitioner is languishing in custody since 10.04.2020 in a case registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act, 2016, as amended by Act 8 of 2018, hence, the prayer for bail has



been made through the present application.

The prosecution case, as per the written report of Ashok Kumar Sharma, Station House Officer, Krishnabrahm P.S., is to the effect that on 08.04.2020 at 6.00 A.M., a confidential information was received that towards village Diyar, two persons are carrying illicit liquor on a motorcycle, consequently, a raid was laid and a motorcycle was intercepted from which, 20.510 litres of Indian Made Foreign Liquor were recovered and the petitioner and co-accused were apprehended.

It is submitted by learned counsel for the petitioner that the recovery has not been made from conscious physical possession of the petitioner rather the same has been made from a motorcycle which does not belong to the petitioner, statement to that effect has been made in paragraph 8 of the petition. The seizure list does not bear the signature of the petitioner. 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 recovery has been made from the possession of the petitioner.

Considering the petitioner's claim that he is not the owner of the motorcycle in question, the fact that the



investigation has already been concluded and statement being 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 Additional Sessions Judge-II -cum- Special Judge, Excise, Buxar in connection with Krishnabrahm P.S. Case No. 177 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 upon 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 Additional Sessions Judge-II -cum- Special Judge, Excise, Buxar in connection with Krishnabrahm P.S. Case No. 177 of



2020.

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

Accordingly, the application is disposed of.

(Dinesh Kumar Singh, J)

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