

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22253 of 2020

Arising Out of PS. Case No.-65 Year-2020 Thana- SAHPUR District- Bhojpur

NANHAK MALI, S/o Jagdish Mali, Resident of Village- Rani Sagar, P.S.-
Shahpur, Distt- Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md. Ataul Haque, Adv.

For the Opposite Party/s : Mr. J. N. Thakur, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 24-08-2020 The Court proceeding has been conducted through
virtual mode.

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

Learned counsel for the petitioner will remove the
defects within a period of three weeks on resumption of physical
court proceeding.

In case of non-removal of the defects within the
aforesaid period, the office will place the matter before the



bench.

None appears on behalf of the petitioner, however, learned APP for the State is present.

The petitioner 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 the Amendment Act 8 of 2018, (hereinafter referred to as 'the Act').

The prosecution case as per the self statement of S.I. Avinash Kumar, S.H.O., Sahpur Police Station recorded on 08.03.2020 is to the effect that on 08.03.2020, during patrolling, a confidential information was received that liquor is being transported by an Auto rickshaw. Consequently a raid was laid and an auto rickshaw bearing registration No. BR03PA 6022 was intercepted and six persons were apprehended. The apprehended accused persons disclosed the name of the petitioner to whom the consignment of country made liquor seized from the auto rickshaw was to be delivered. From the auto rickshaw total, 80 litres country made liquor, 3 gas cylinders were recovered.

From the pleading of the petitioner and the materials available on record, it appears that the petitioner is languishing



in custody since 06.05.2020 and the petitioner was not apprehended from the spot. The name of the petitioner sprang up on the statement of the co-accused persons who were apprehended with the country made liquor. It is claimed in the petition that there is no recovery from the conscious physical possession of the petitioner and the investigation has already been concluded. Though the petitioner is accused in two other cases of similar nature, but in those cases, he has been granted bail. A statement to that effect has been made in paragraph no.3 of the petition. Moreover, co-accused, Mantosh Yadav and Chhote Lal Yadav have been granted bail by a co-ordinate bench of this Court vide order dated 15.05.2020 passed in Criminal Miscellaneous No. 19095 of 2020.

Learned APP for the State submits that though the petitioner was not apprehended from the auto rickshaw from which the recovery of illicit liquor has been made, but the apprehended co-accused persons have suggested the name of the petitioner.

Considering the fact that the material available on record does not suggest the recovery from the possession of the petitioner, the FIR named accused person have been granted bail by a co-ordinate bench of this Court, 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 4th Additional Sessions Judge-cum-Special Judge, Excise, Bhojpur, Ara, in connection with Excise Case No. 494 of 2020, arising out of Shahpur P.S. Case No. 65 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 the learned 4th Additional Sessions Judge-cum-Special Judge, Excise, Bhojpur, Ara, in connection with Excise Case No. 494 of 2020, arising out of Shahpur P.S. Case No. 65 of 2020.

The learned Court below will further be at liberty to extend the period of provisional bail 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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