

IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr. Misc. No. 22236 of 2020

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Lakshman Rai, son of Late Ram Sagar Rai, resident of village-Mehashi, P.S.-
 Bibhutipur District-Samastipur.

... .. Petitioner

Versus

The State of Bihar

.. ... Opposite Party

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Appearance :

For the Petitioner : Mr. Mukesh Kumar No.1, Advocate

Mr. Ashok Kumar Pathak, Advocate

For the Respondent State: Mr. Surendra Prasad Singh, APP

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 10-09-2020 Heard Mr. Mukesh Kumar No.1, learned counsel
 appearing on behalf of the petitioner and Mr. Surendra Prasad
 Singh, learned Additional Public Prosecutor, for the State of
 Bihar.

This application for grant of regular bail arises out of
 Angarghat P.S. Case No. 101 of 2019, registered for the offence
 punishable under Sections 30(a) and 32(2) of Bihar Prohibition
 and Excise Amendment Act, 2016.

Allegedly, from a pick-up van, bearing registration
 No. BR33J/6002, the police recovered 860 litres of foreign
 liquor. The driver of the vehicle was arrested, who is said to
 have revealed that the consignment was to be delivered to one
 Nunu Jha of Samastipur district. Admittedly, the petitioner is the



registered owner of the said vehicle and for that reason he has been implicated and subsequently arrested by the police.

It is peculiar to note that in the main application, while admitting the fact that the petitioner is the owner of the vehicle, the petitioner took a plea that he was unaware of alcohol being transported in the said vehicle. It has been stated in the application that the vehicle was commercial in nature and it was handed over to the driver. During the course of argument, however, learned counsel appearing on behalf of the petitioner has submitted that the petitioner had already sold the vehicle to some other person on 19.09.2019 itself, whereas the date of recovery of illicit liquor, leading to registration of F.I.R., is 01.11.2019.

Considering the said submission, learned counsel for the petitioner was asked to file a supplementary affidavit stating the manner in which the vehicle was sold before the date of occurrence. A supplementary affidavit has been filed on behalf of the petitioner, in which it has been stated that the petitioner had sold the vehicle on 19.09.2019 for a total sum of Rs.2,51,000/- and at the time of handing over the vehicle, the purchaser had paid a sum of Rs.41,000/- cash to the petitioner. Rest amount was to be paid within five months. It has been stated that the vehicle was to be legally transferred after



payment of the total amount. With this averment, a plea has been taken that the petitioner has no liability in respect of the vehicle in question and as per the sale agreement, the entire liability is on said Tej Narayan Sahi. A copy of the sale letter has been brought on record by way of Annexure-2 to the application.

The fact that the petitioner had not taken such plea in the main application and rather he had admitted that he was the owner of the vehicle when it was seized, the subsequent plea that he had sold the vehicle is apparently an afterthought. The Court, *prima facie*, forms an opinion that the petitioner has started tampering with the evidence and manufacturing the evidence for his defence.

Considering huge quantity of liquor seized from the vehicle and the petitioner's conduct, I am not inclined to allow him privilege of regular bail.

This application is accordingly dismissed.

It is directed that the defect(s) in the application, pointed out by the Registry, must be removed within two months.

Since there is a lock down, the Court has considered it appropriate to adopt following procedure for communication of the present order :-



(i) The order, which has been dictated during the course of the proceedings of virtual Court, shall be communicated to me on my e-mail I.D. by the Secretary.

(ii) The corrected copy of the order shall be transmitted by me from my e-mail I.D. to the Secretary, which shall be treated to be the authentic copy of the order passed by this Court today in the present proceeding.

(iii) Hard copy of the order, duly signed by me, shall be preserved in my residential-office for documentation and future use, if any.

(iv) Let a copy of the order be communicated to the learned Court below through e-mail or any other appropriate electronic mode by the Registry.

Let steps be taken by the Registry for uploading of the present order without compromising with the norms of social distancing.

(Chakradhari Sharan Singh, J)

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