

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21947 of 2020**

Arising Out of P.S. Case No.-69 Year-2020 Thana-Piprakothi District-Motihari, East
Champaran

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Mukesh Kumar Yadav, S/o Ramprit Rai, R/o village-Makari Mahuawa, P.S.
Piprakothi, District-East Champaran.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Abhishek Kumar, Advocate
Ms. Rashmi Jha, Advocate
Mr. Sharad Kumar Verma, Advocate.
For the Opposite Party : Mr. Uday Pratap Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL ORDER

2 18-08-2020 Filing through email of the present application has

been accepted in view of the out-break of COVID-19 Pandemic

and has been posted before me for hearing through video

conferencing.

The application is apparently not in accordance with

the provisions prescribed under the Patna High Court Rules,

which do not contemplate filing of application through email. In

spite of that, considering the extra-ordinary situation, filing of

the present application has been allowed through email.

Considering the situation prevailing, the Court has

considered, for the present, to ignore the deficiency in filing of



the application.

Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

The petitioner has filed the present application under Sections 439 and 440 of the Code of Criminal Procedure for grant of bail in connection with Piprakothi P.S. Case No.69 of 2020 registered under Sections 272, 273/34 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

It is contended by the learned counsel for the petitioner that the petitioner was not arrested at the spot. There is no recovery from his conscious or constructive possession. It is further contended that without any cogent evidence police have implicated the petitioner in the present case. It is also contended that, by now, investigation has been completed and the petitioner, having no criminal antecedent, is not likely to abscond or tamper with the evidence.

On the other hand, learned counsel for the State has opposed the application for grant of bail to the petitioner. He contended that as per prosecution case, a car was found standing beside the road on 29.02.2020 and five persons were unloading cartons. On seeing the police party, they all fled away and, on



search, 45 liters of foreign liquor was recovered from the car and 11.34 liters of foreign liquor was recovered from the hut. Thereafter, car and liquor were seized. On query, it also transpired that co-accused Manohar Singh, the petitioner Mukesh Kumar Yadav and Dharmendra Rai used to sell liquor.

Be that as it may, considering the nature of the offence and the other facts and circumstances of the case, the petitioner is directed to be released on bail on furnishing bail bond of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned 9th Additional Sessions Judge-cum-Special Judge, Excise Act, East Champaran, Motihari in connection with Piprakothi P.S. Case No. 69 of 2020.

Since the court proceedings are being conducted through virtual mode and normal court functioning has not been restored till date, it is considered appropriate to adopt the following procedure for communication of the present order:-

- (i) The order, which has been dictated during the course of proceeding of the virtual court, shall be communicated to me on my email by the Senior Secretary.
- (ii) The corrected copy of the order shall be transmitted



by me from my email id to the Senior Secretary, which shall be treated to be an authentic copy of the order passed by this Court 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 sent to Mr. Abhishek Kumar, learned counsel for the petitioner also on his email.
- (v) Let steps be taken by the Senior Secretary/registry for up-loading of the present order without compromising with the norms of social distancing.

(Ashwani Kumar Singh, J.)

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