

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22739 of 2020**

Arising Out of PS. Case No.-86 Year-2020 Thana- RAXAUL District- East Champaran

SUNUF RAWAT @ SANUF RAWAT @ SONU KUMAR @ SANUF PATEL
S/O Ram Vilash rawat @ Ram Vilash Raut R/O Village - Muserahi (Mushari),
P.S.- Ramgarhwa, District - East Champaran.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Singh

For the Opposite Party/s : Mr. Laxmi Kant Sharma, APP

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

2 04-09-2020 The court proceeding has been conducted through
virtual mode.

Since the court proceeding is not functional in
physical mode, due to present Pandemic, Covid -19, the present
case has been listed with defects.

Learned counsel for the petitioner undertakes to
remove the defect(s) within a period of four weeks of
resumption of court proceeding in physical mode.

If the defect(s) is not removed within the undertaken
period, the office will place the matter again.

Heard learned counsel for the petitioner and the State.

The petitioner is languishing in custody since
07.03.2020, in a case registered for the offences punishable
under Sections 272 and 273 of the IPC and 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').

The prosecution case, as per the prosecution report submitted by Head Constable of S.S.B., Santosh Datau is to the effect that on 06.06.2020, one person was entering into the Indian territory from Nepal boarder by a motorcycle, which was intercepted and and the petitioner was apprehended. From the motorcycle, total 33 litres of Nepali liquor and 7.20 litres of Indian Made Foreign Liquor were recovered.

Learned counsel for the petitioner submits that the petitioner has maliciously been framed in the present case. The investigation has already been concluded and a statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent. It is further submitted that the seizure has been made by Head Constable of S.S.B., whereas Section 73(e) of the Act mandates such seizure by an officer not below the rank of S.I. and there is nothing on record to suggest that on the date of seizure, Head Constable of S.S.B., was authorized under Section 73(f) of the Act to make such seizure. Moreover, in the present situation, created due to pandemic, Covid-19, since the court proceeding is not functional in physical mode, there is no likelihood of trial being



concluded in near future.

Learned APP for the State submits that recovery has been made from the possession of the petitioner.

Considering the fact that the investigation has already been concluded, period under custody and the trial is not likely to be concluded due to the pandemic, Covid-19 coupled with statement made in paragraph no.3 of the petition to the effect 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 Special Judge, Excise, East Champaran at Motihari, in connection with Raxaul P.S. Case No. 86 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 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 Special Judge, Excise, East Champaran at Motihari, in connection with Raxaul P.S. Case No. 86 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.

Accordingly, the present application is disposed of.

(Dinesh Kumar Singh, J)

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