

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22336 of 2020

Arising Out of PS. Case No.-175 Year-2018 Thana- GORAUL District- Vaishali

SUNIL KUMAR Son of Hriday Rai Resident of Village- Mathna, P.S.-
Goraul (Katahra O.P.), District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajesh Kumar Pandey, Adv.

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

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 25-08-2020 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 09.03.2020 in a case registered for the offences punishable under Sections 30(a), 32(I), 38(ii) and 41(I) of the Bihar



Prohibition and Excise Act, 2016, as amended by Amendment Act 8 of 2018.

The prosecution case, as per the self statement of Rakesh Rajan, S.H.O, Kathara (O.P.) Police Station, recorded on 11.06.2018 at about 3.45 A.M. is to the effect that on the same day, a confidential information was received that the petitioner and other co-accused persons have brought huge quantity of illicit liquor and have kept stored the same in a go-down near the courtyard of co-accused, Hriday Rai. Consequently, a raid was laid when 3-4 accused persons were apprehended while other accused persons managed to flee away by a white coloured Scorpio vehicle and from a Bolero pickup van, parked in the courtyard of co-accused, Hriday Rai, total 1086.94 litres of Indian Made Foreign Liquor were recovered. The apprehended co-accused persons disclosed that on seeing the police personnel, the petitioner and other managed to flee away from the spot. It is further submitted that no offence under Section 32(ii) of the Act is made out against the petitioner since, Section 38(ii) has been deleted by Amendment Act 8 of 2018.

Learned counsel for the petitioner submits that no recovery has been made from the conscious physical possession of the petitioner and the recovery, if any, has been made from



the Bolero pickup vehicle, parked in the courtyard of the co-accused person, Hirday Rai who has been granted anticipatory bail by a Co-ordinate bench of this Court, vide order dated 26.07.2018 passed in Cr. Misc. No. 45440 of 2018. A statement has been made in paragraph no.3 of the petition that the petitioner is accused in one other case, in which he is on bail. Moreover, investigation has already been concluded.

Learned APP submits that the name of the petitioner sprang up on the confession of apprehended co-accused persons.

Considering the fact that no recovery has been made from the conscious physical possession of the petitioner, investigation already being concluded and co-accused persons, from whose courtyard recovery has been made, being granted privilege of anticipatory 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 ADJ-II-cum-Special Judge, Excise Act, Hajipur, in connection with Mahua P.S. Case No. 36 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 learned ADJ-II-cum-Special Judge, Excise Act, Hajipur, in connection with Mahua P.S. Case No. 36 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 stands disposed of.

(Dinesh Kumar Singh, J)

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