

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22703 of 2020

Arising Out of PS. Case No.-41 Year-2020 Thana- CHANDAN District- Banka

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1. CHANDAN KUMAR Son of Singheshwar Sah Resident of Village - Muzaffarganj, Police Station - Habeli Kharagpur, District - Munger.
 2. Santosh Kumar Mishra Son of Satya Narayan Mishra Resident of Village - Muzaffarganj, Police Station - Habeli Kharagpur, District - Munger.

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjeev Ranjan

For the Opposite Party/s : Mr.A.G

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 03-09-2020 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 petitioners 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 petitioners and the State.



The petitioners are languishing in custody since 05.03.2020, in a case registered for the offences punishable under Sections 30(a)(g) and 32(2) 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 written report of A.S.I., Mritunjay Kumar Singh, submitted to the S.H.O., Chandan Police Station is to the effect that on 04.03.2020, during patrolling, a car was intercepted from which, total 21.5 litres of Indian Made Foreign Liquor and ten litres of beer were recovered when the petitioners were apprehended.

Learned counsel for the petitioners submits that the petitioners was not aware about the illicit liquor being kept in the vehicle in question. A statement has been made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent. Moreover, the investigation has already been concluded and 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 the petitioners were found sitting in the car, from which the



recovery has been made.

Considering the fact that seizure has been made by an A.S.I. of Police whereas Section 73(e) of the Act mandates such seizure by an officer not below the rank of S.I. of Police and there is nothing on record to suggest that A.S.I. of Police was authorized on the date of seizure under Section 73(f) of the Act to make such seizure, 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 petitioners are 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-cum-Additional Sessions Judge-II, Banka, in connection with Chandan P.S. Case No. 41 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 petitioners 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) each 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-cum-Additional Sessions Judge-II, Banka, in connection with Chandan P.S. Case No. 41 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)

Amrendra/-

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