

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22641 of 2020**

Arising Out of PS. Case No.-10 Year-2020 Thana- GAUTAMBUDHNAGAR District- Siwan

SONU CHAUDHARY Son of Buni Lal Chaudhary @ Munni Lal Choudhary
Resident of Village- Mishrauliya, P.S.- G.B. Nagar, District- Siwan.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bijay Prakash Singh

For the Opposite Party/s : Mr. Uma Shankar Prasad Singh, APP

**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 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
31.05.2020, in a case registered for the offences punishable
under Sections 30(a), 33, 34, 36, 38 and 41(1) 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 Binod Kumar Sudhakar, A.S.I., submitted to the S.H.O., G.B. Nagar Police Station is to the effect that on 14.01.2020, on the instruction of the S.H.O., to the effect that the petitioner has stored illicit liquor near a pond, raid was laid when 18.900 litres of Indian Made Foreign Liquor were recovered when the petitioner managed to escape from the scene.

Learned counsel for the petitioner submits that recovery has been made from an open area, hence the recovery cannot be treated from the conscious physical possession of the petitioner. A statement has been made in paragraph no.3 of the petition that the petitioner is 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 on seeing the police personnel, the petitioner escaped from the scene.

Considering the fact that the fact that seizure has been made by an A.S.I., whereas Section 73(e) of the Act



mandates such seizure by an officer not below the rank of S.I. of Police but there is nothing on record to suggest that under Section 73(f) of the Act, the informant being the A.S.I. has been authorized 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 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 2nd Additional Sessions Judge-cum-Special Judge, Excise, Siwan, in connection with G.B. Nagar P.S. Case No. 10 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 2nd Additional Sessions Judge-cum-Special Judge, Excise, Siwan, in connection with G.B. Nagar P.S. Case No. 10 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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