

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22309 of 2020

Arising Out of PS. Case No.-152 Year-2020 Thana- RAJIVNAGAR District- Patna

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Uday Shankar S/o Shivji Prasad Resident of Indrapuri Road No. 0 P.S.-
Patliputra, District-Patna.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr. Jha Vikram, Advocate
For the Opposite Party/s : Mrs. Rita Verma, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 27-08-2020 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 seeks bail in connection with Special Case No. 3567 of 2020 arising out of Rajeev Nagar P.S. Case No. 152 of 2020 registered for the offences punishable under Sections 30(a), 37(b)(c) of the Bihar Prohibition and Excise Act, 2016.

It is contended by the learned counsel for the petitioner that it is not the case of the prosecution that the alleged recovery of illicit liquor belonged to the petitioner. The only case against him is that on seeing the police party, he tried to run away from the place of occurrence and when he was arrested, he was found drunk. It is further contended that the petitioner was never put to alcohol breath analyzing test. His blood sample or urine sample was also not taken for examination before laboratory to find out as to whether he had consumed liquor. It is next contended that the petitioner has got no criminal antecedent and is in custody since 21.05.2020. Lastly, it is contended that no independent witness has been made witness to the seizure list which creates serious doubt on prosecution story and violates the mandatory provisions of Section 100(4) of the Code of Criminal Procedure.

Learned counsel for the State has opposed the



application for grant of bail to the petitioner.

Considering the nature of the offence, the allegations made against the petitioner, the submissions advanced on behalf of the parties and the period undergone by the petitioner in custody, he 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 Special Judge, Excise, Patna in connection with Special Case No. 3567 of 2020 arising out of Rajeev Nagar P.S. Case No. 152 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. Jha Vikram, 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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