

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22775 of 2020

Arising Out of PS. Case No.-73 Year-2019 Thana- BALTHAR District- West Champaran

Nirgun Sah @ Jitendra Sah Son of Sri Asarfi Sah Resident of Village -
Balthar, P.S. - Balthar, District - West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Umesh Chandra Verma, Advocate

For the Opposite Party/s : Mr.Ajit Kumar, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

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

Heard learned counsel for the petitioner and
learned APP for the State.

Since the court proceeding in physical mode is
non-functional, due to present pandemic, COVID-19, the matter
is listed with defects.

Learned counsel for the petitioner undertakes to
remove the defects within three weeks of resumption of court
proceeding in physical mode. In the eventuality of non-removal
of defects within undertaken period, the office will place the
matter before the bench.

The petitioner is languishing in custody since
03.02.2020 in a case registered for the offences punishable



under Section 414 of the Indian Penal Code and Section 30(a) of Bihar Prohibition and Excise Act, 2016, as amended by Act 8 of 2018, hence, the prayer for bail has been made through the present application.

Though, in paragraph 1 of the petition, Section 414 IPC has not been mentioned. Learned counsel for the petitioner is permitted to make correction in paragraph 1 of the petition after resumption of Court proceedings in physical mode.

The prosecution case, as per the self statement of Sub-Inspector of Police, Vivek Kumar Jaiswal recorded on 06.08.2019, is to the effect that a confidential information was received that Prabhu Sahni and Nirgun Sahni, the petitioner were bringing liquor from Nepal, consequently, two persons were found travelling on a motorcycle but they escaped from the scene leaving behind the motorcycle with two sacks tied on the motorcycle. From the Hero Splendor motorcycle, total 76.800 litres of Nepali liquor were recovered.

It is submitted by learned counsel for the petitioner that the motorcycle in question does not belong to the petitioner, statement to that effect has been made in paragraph 7 of the petition and investigation has already been concluded and the petitioner has not apprehended from the scene. Though, the



petitioner is accused in one other case but he is on bail in that case.

Learned APP for the State submits that the recovery has been made from the motorcycle of the petitioner and the co-accused.

Considering the fact that the investigation has already been concluded and the motorcycle does not belong to the petitioner, 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, West Champaran at Bettiah in connection with Balthar P.S. Case No. 73 of 2019.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond upon 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 Special Judge, Excise, West Champaran at Bettiah in connection with Balthar P.S. Case No. 73 of 2019.

The learned Court below is at liberty to further extend the period of provisional bail if the court proceeding in physical mode will not resume in next three months.

Accordingly, the application stands disposed of.

(Dinesh Kumar Singh, J)

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