

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22706 of 2020

Arising Out of PS. Case No.-71 Year-2020 Thana- RAJAOLI District- Nawada

MAHADEO SINGH @ MAHADEO RAM Son of Late Bindi Singh Resident
of Village-Hatho Chak Tola, Champakali, Police Station-Rajauli, District-
Nawada.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Birendra Kumar

For the Opposite Party/s : Mr. Md. Fahimuddin, APP.

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 04-09-2020 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
06.06.2020, in a case registered for the offences punishable



under Sections 30(a) and 41 of the Bihar Excise and Prohibition Act, 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., Ranjeet Paswan, submitted to the Station House Officer, Rajauli Police Station is to the effect that on 01.03.2020, on a confidential information, raid was laid near the house of the petitioner and 40 litres of country made were recovered and from the embankment of a river, 30 litres of country made liquor and 5000 litres of fermented mahua liquor were recovered

Learned counsel for the petitioner submits that no recovery has been made from the conscious physical possession of the petitioner. 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. It is further submitted that the seizure has been made by 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. 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 recovery has been made from near the house of the petitioner.

Considering the fact that no recovery has been made from the conscious physical possession of the petitioner, the investigation has already been concluded, period under custody, the seizure has been made by A.S.I., who is not authorized when there is nothing on record to suggest that such officer was authorized under Section 73(f) of the Act to make the seizure and the trial is not likely to be concluded due to the pandemic, Covid-19, 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 Additional District and Sessions Judge-II-cum-Special Judge, Nawada, in connection with Rajauli P.S. Case No. 71 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 Additional District and Sessions Judge-II-cum-Special Judge, Nawada, in connection with Rajauli P.S. Case No. 71 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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