

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23851 of 2020

Arising out of PS. Case No.-162 Year-2020 Thana- GOVERNMENT OFFICIAL COMP.
District- Sitamarhi

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Prashant Kumar, Son of Avadhesh Kumar @ Avadhesh Thakur Resident of
Village- Mohani Mandal, P.S.- Suppi, District- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Jha, Advocate
For the Opposite Party/s : Mr. Chandrasen Prasad Singh, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 18-09-2020 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



04.03.2020 in a case registered for the offence punishable under 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.

The prosecution case, as per the prosecution report of Birendra Kumar, Inspector (Excise) submitted to the 2nd Additional Sessions Judge-cum-Special Judge, Sitamarhi, is to the effect that on 03.03.2020, it is alleged that during vehicle check, one motorcycle was intercepted when two persons, Prashant Kumar, the petitioner and co-accused Sumit Kumar were apprehended and 36.600 litres of Nepali Soufi liquor were recovered.

It is submitted by learned counsel for the petitioner that the petitioner was not aware about the liquor being carried on the alleged motorcycle and he was simply a pillion rider the petitioner is not the owner of the seized motorcycle, statement to that effect has been made in para 8 of the petition and investigation has already been concluded. A statement has been made in paragraph no. 3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP for the State submits that the recovery has been made from the motorcycle in question on which the



petitioner was found travelling.

Considering the fact that the recovery has not been made from the conscious physical possession of the petitioner and investigation has already been concluded, coupled with the statement made in paragraph no. 3 of the petition 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 Additional Sessions Judge-II -cum- Special Judge (Excise), Sitamarhi in connection with Complaint Case No. C2 162 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 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



Additional Sessions Judge-II -cum- Special Judge (Excise),
Sitamarhi in connection with Complaint Case No. C2 162 of
2020.

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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