

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22653 of 2020

Arising Out of PS. Case No.-18 Year-2020 Thana- ANDHRAMATH District- Madhubani

ASHOK KUMAR, Son of Gujan Mukhiya, Resident of Village - Dharhara,
P.S.- Andhramath, District - Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shashank Chandra
For the Opposite Party/s : Md. Asha Kumari, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 02-09-2020 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 before the bench.

Heard learned counsel for the petitioner and the State.

The petitioner is languishing in custody since
21.03.2020, in a case registered for the offences punishable
under Sections 272 and 273 of the IPC and Section 30(a) 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 A.S.I., Rajesh Kumar Sharma, submitted to the S.H.O., Andhramath Police Station is to the effect that on 14.02.2020 at about 10.30 P.M., during night patrolling, a confidential information was received to the effect that illicit liquor is being transported from Nepal on a red coloured motorcycle. Subsequently, the alleged motorcycle was intercepted, but two persons managed to escape from the scene. From the alleged motorcycle, total 60 litres of Nepali Liquor were recovered, leading to registration of FIR against the owner of the alleged motorcycle. The name of the petitioner sprang up during investigation, as the person, who was driving the alleged motorcycle.

Learned counsel for the petitioner submits that even assuming the accusation to be true, no recovery has been made from the conscious physical possession of the petitioner. The 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. 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 the motorcycle, which was being driven by the petitioner.

Considering the fact that the seizure has been made by A.S.I. of police, who is not authorized to make such seizure under Section 73(e) of the Act and there is nothing on record to suggest that the A.S.I. is authorized to make such seizure as incorporated under Section 73(f) of the Act, the investigation has already been concluded, nature of accusation, 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 A.D.J.-cum-Special Judge, Excise Act, Madhubani, in connection with Andhramath P.S. Case No. 18 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 A.D.J.-cum-Special Judge, Excise Act, Madhubani, in connection with Andhramath P.S. Case No. 18 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)

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