

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22699 of 2020**

Arising Out of PS. Case No.-132 Year-2020 Thana- GARKHA District- Saran

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NAGENDRA BHARTI S/o Sri Rama Shankar Bharti Resident of Village-
Sakar Dih, Bharti Tola, P.S.-Jalalpur, District-Saran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bishwajeet Singh, Adv.

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

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**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
20.03.2020, in a case registered for the offences punishable
under Sections 30(a), 36 and 41 of the Bihar Prohibition and



Excise Act, 2016, as amended by Amendment Act 8 of 2018.

The prosecution case, as per the self statement of Ashok Kumar, S.I. of Police-cum-S.H.O., Garkha Police Station is to the effect that on 18.03.2020, during patrolling, a confidential information was received that on truck loaded with liquor has entered into the Bihar territory from U.P. and the said truck is being escorted by a Bullet motorcycle. Consequently, the said Bullet motorcycle was intercepted and two persons, namely, co-accused, Rajnish Kumar Sahni and Nagendra Bharti, the petitioner were apprehended. Subsequently, the said truck was also intercepted and driver of the truck was apprehended, who disclosed his name as Ashok Sahni, who also disclosed that liquor belongs to one Bhulan Singh and the petitioner and co-accused Rajnish Kumar Sahni are the associates of co-accused, Bhulan Singh, who were escorting the truck in question. From the truck in question, total 5247.36 litres of Indian Made Foreign liquor were recovered.

Learned counsel for the petitioner submits that no recovery has been made from the conscious physical possession of the petitioner. Similarly situated co-accused Bhulan Singh has been granted bail by learned Court below. A statement has been made in paragraph no.3 of the petition that the petitioner is



not having any criminal antecedent. Moreover, 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 the petitioner was escorting the truck from which huge quantity of illicit liquor has been recovered.

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 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 Additional Sessions Judge-cum-Special Judge, Excise, Saran, in connection with Garkha P.S. Case No. 132 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 Additional Sessions Judge-cum-Special Judge, Excise, Saran, in connection with Garkha P.S. Case No. 132 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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