

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22694 of 2020

Arising Out of PS. Case No.-125 Year-2020 Thana- MINAPUR District- Muzaffarpur

NIKHIL KUMAR THAKUR @ MITHU THAKUR Son of Prem Kumar Thakur @ Lalan Thakur Resident of Village - Ghosaut, P.S.- Siwaipatti, District – Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Chandra Shekhar Anand
For the Opposite Party/s : Mr. Madan Kumar, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 03-09-2020 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 04.06.2020, in a case registered for the offences punishable



under Sections 272 and 273 of the IPC and Sections 30(a) and 41(1) of the Bihar Prohibition and Excise Act, 2016, as amended by Amendment Act 8 of 2018.

The prosecution case, as per the written report of S.I., Ramashankar Chaudhary, submitted to the S.H.O., Meenapur Police Station is to the effect that on 18.04.2020 at about 5.30 A.M., the S.H.O., Meenapur Police Station informed the informant that in the hutment of co-accused Vijay Kumar Keshari @ Vijay Rai, illicit liquor has been stored. Consequently, raid was laid and from the hutment of co-accused Vijay Kumar Keshari, total 371.52 litres of Indian Made Foreign Liquor were recovered, when the local people suggested that the alleged hutment belongs to co-accused Vijay Kumar Keshari, who conducts the trade of illicit liquor through his nephew co-accused Raju Rai and the petitioner Nikhil Kumar Thakur.

Learned counsel for the petitioner submits that admittedly no recovery has been made from the conscious physical possession of the petitioner and only on the basis of suspicion, the petitioner has been roped in the present case. A statement has been made in paragraph no.3 of the petition that the petitioner is accused in two other cases, out of which, in one case, he is on bail. 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 the witnesses suggested that at the behest of the petitioner, co-accused Vijay Kumar Keshari was conducting the trade of illicit liquor.

Considering the fact that the prima facie recovery has not been made from the conscious physical possession of the petitioner, the investigation has already been concluded, the period under custody 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 Special Judge, Excise Act, Muzaffarpur, in connection with Meenapur P.S. Case No. 125 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 Special Judge, Excise Act, Muzaffarpur, in connection with Meenapur P.S. Case No. 125 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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