

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22700 of 2020

Arising Out of PS. Case No.-227 Year-2019 Thana- GOVERNMENT OFFICIAL COMP.
District- Gopalganj

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INDRAJIT YADAV S/O Late Bunni Yadav R/O Village - Hal Mukam, Balua
Tola, P.S. - Manjhagarh, Distt. - Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shri Prakash Tiwari
For the Opposite Party/s : Mr. Indrajeet Yadav, APP

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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 again.

Heard learned counsel for the petitioner and the State.

The petitioner is languishing in custody sine
25.01.2020, in a case registered for the offence punishable under



Section 30(a) 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 Inspector, Excise, Gopalganj submitted to the 2nd Additional District and Sessions Judge-cum-Special Judge, Excise, Gopalganj is to the effect that during patrolling, a truck was intercepted from which, total 5097.600 litres of Indian Made Foreign Liquor were recovered and two persons were apprehended, who disclosed their name as Jitendra Kumar and Deepak Kumar. The further disclosed the name of the petitioner and others, as the persons, who, on seeing the police had escaped from the scene.

Learned counsel for the petitioner submits that no recovery has been made from the conscious physical possession of the petitioner and the petitioner has not been apprehended from the spot. It is further submitted that co-accused Jitendra Kumar, on whose confession, the name of the petitioner sprang up, has been granted bail by a Co-ordinate bench of this Court, vide order dated 16.09.2019, passed in Cr.Misc. No. 58283 of 2019 whereas similarly situated co-accused, Birbal Yadav has been granted bail by a Co-ordinate bench of this Court, vide order dated 25.11.2019, passed in Cr. Misc. No. 70639 of 2019



and co-accused Deepak Kumar has been granted bail by a Co-ordinate bench of this Court, vide order dated 07.1.2020, passed in Cr. Misc. No. 58105 of 2019. 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 name of the petitioner sprang up on the confession of apprehended co-accused persons.

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, 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, Gopalganj, in connection with Excise Case No. 227 of 2019.

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 and District Judge-II-cum-Special Judge, Excise Act, Gopalganj, in connection with Excise Case No. 227 of 2019.

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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