

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29460 of 2019**

Arising Out of PS. Case No.-19 Year-2019 Thana- NATIONAL HIGHWAY District-
Samastipur

Ramesh Rai Son of Ram Vilash Rai Resident of Village - Udaypur Anni, P.S.-
N.H. Bangara, Distt - Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Lakshmindra Kumar Yadav

For the Opposite Party/s : Mr.Parmanand Kumar

**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER**

4 10-06-2020 The matter has been taken up through virtual court
proceeding.

Heard learned counsels for the petitioner and the
State.

The present application has been filed with a prayer
for bail 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 Act 8 of 2018

A bench of this Court, vide order dated 11.06.2019, granted provisional bail to the petitioner who was in custody since 19.03.2019 and further directed the matter to be listed after disposal of S.L.P. (C) Nos. 27949-29763 of 2016, wherein the vires of the Bihar Excise Act, 1915 and the Bihar Prohibition and Excise Act, 2016 is under challenge. The relevant portion of the order reads as follows:-

“Recently, the Full Bench of this Court in a case i.e. Criminal Appeal (SJ) No. 431 of 2019 (Ram Vinay Yadav vs. The State of Bihar) has noticed that vires of entire Excise Act as well as amended Excise Act is pending before the Hon’ble Supreme Court.

The Court is of opinion that since vires of entire Excise Act is already sub-judice before the Hon’ble Supreme Court, it would not be appropriate for this court to finally dispose of any case pertaining to Excise Act. However, at the same time, it would not be appropriate to allow a person to remain in custody for an indefinite period.

List this matter after disposal of S.L.P. (C) Nos. 27949-29763 of 2016 and connected writ petitions pending before the Hon’ble Supreme Court.

Till further order, the petitioner namely, Ramesh Rai is directed to be released provisionally on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to



the satisfaction of learned Additional Sessions Judge 3rd
-cum-Special Judge, Excise, Samastipur in connection
with Bangra/N.H. Bangra P.S. Case No. 19 of 2019.”

Due to present pandemic, Covid-19, the physical
court proceedings in the Supreme Court are not being
conducted, as a result, there is no likelihood of the
aforementioned S.L.P. being disposed of in near future. Hence,
the application has been heard on merits.

As per the prosecution case, 19 litres of Indian Made
Foreign Liquor were recovered from the house of the petitioner.

It is submitted by learned counsel for the petitioner
that the recovery has been made from the joint family house. A
statement has been made in paragraph no.3 of the petition that
the petitioner is not having any criminal antecedent. It is further
submitted that there is nothing on record to suggest that the
petitioner has misused the privilege of provisional bail.

Learned APP submits that recovery has been made
from the house of the petitioner.

Considering the aforesaid facts and submissions of the
parties, particularly the fact that there is nothing on record to
suggest that the petitioner has misused the privilege of
provisional bail, the provisional bail, granted to the petitioner
vide order dated 11.06.2019 in connection with Bangra/N.H.



Bangra P.S. Case No. 19 of 2019, pending in the Court of learned Additional Sessions Judge 3rd -cum-Special Judge, Excise, Samastipur, is hereby confirmed.

Accordingly, the order dated 11.06.2019 stands modified to the extent of placing the matter after disposal of aforementioned S.L.P.

The present application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

U		T	
---	--	---	--

