

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.29668 of 2019**

Arising Out of PS. Case No.-20 Year-2019 Thana- BARACHATTI District- Gaya

=====

Mofeez Ansari Son of Hussain Ansari Resident of Village - Lakhi Kudi, P.S.-  
Dumka, District - Dumka (Jharkhand).

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

=====

**Appearance :**

For the Petitioner/s : Mr.Sanjay Kr. Sinha

For the Opposite Party/s : Mr.Anil Prasad Singh

=====

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

3      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 30(a), 38 and 47 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 17.01.2019 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, Mofeez Ansari 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 Special Judge, Excise, Gaya in connection with Barachatti P.S. Case No. 20 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, 1500 litres of Indian Made Foreign Liquor were recovered from the a pickup van. The petitioner is alleged to be the driver of the vehicle in question.

It is submitted by learned counsel for the petitioner that the petitioner was not aware about the illicit liquor being kept in the vehicle in question. 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 vehicle which was being driven by 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 Barachatti P.S. Case No. 20 of 2019, pending in the Court of learned Special Judge, Excise, Gaya, 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 |  |
|---|--|---|--|

