

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30133 of 2019

Arising Out of PS. Case No.-79 Year-2019 Thana- BRAHMPUR District- Buxar

Saddam Dafali @ Nata Miya Son of Late Munna Dafali @ Abdul
Najamuddin Resident of Village- Ariyao, P.S.- Krishnabraham, District-
Buxar.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anirudh Mishra

For the Opposite Party/s : Mr.Madan Kumar

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) & (c) 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 26.03.2019 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, Saddam Dafali @ Nata Miya 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 ADJ.II-cum-Special Judge, Excise Act, Buxar in connection with Brahmpur P.S. Case No. 79 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 merit.



As per the prosecution case, 1589.76 litres of Indian Made Foreign Liquor has been recovered from the Boring House of co-accused Ram Kumar Yadav and 1166.40 litres of Indian Made Foreign Liquor has been recovered from the brick kiln of co-accused Dasrath Yadav. The name of the petitioner sprang up on the confession of co-accused persons.

It is submitted by learned counsel for the petitioner that recovery has not been made from the conscious physical possession of the petitioner. The investigation has already been concluded. 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 the name of the petitioner sprang up on the confession of co-accused persons.

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 Brahmpur P.S. Case No. 79 of 2019, pending in the Court of learned ADJ.II-cum-Special Judge, Excise Act, Buxar, 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	
---	--	---	--

