

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35845 of 2019**

Arising Out of PS. Case No.-40 Year-2019 Thana- KHODAWANDPUR District- Begusarai

AJAY JHA @ AJAY KUMAR JHA, Son of Upendra Jha, Resident of Village
- Sirsi, P.S.- Bibhutipur, District - Samastipur.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Jitendra Narain Sinha, Adv.

For the Opposite Party/s : Mr. Pronoti Singh, APP

**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 272, 273 of the I.P.C. and Section 30(a) of the Bihar Prohibition and Excise Act, 2016, as amended by Act 8 of 2018

A bench of this Court, vide order dated 10.06.2019, granted provisional bail to the petitioner who was in custody since 08.03.2019 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 petitioners namely Ajay Jha @ Ajay Kumar Jha is directed to be released provisionally on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Additional District & Sessions Judge 2nd -cum- Special Judge, Excise, Begusarai in connection with Khodawandpur P.S. Case No. 40 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, total 323.64 litres of Indian Made Foreign Liquor were recovered from a pick up van. The petitioner was the driver of the vehicle in question from which the seizure was made. The petitioner and other co-accused were apprehended from the place of seizure.

It is submitted by learned counsel for the petitioner that the petitioner has neither any concern with the seized liquor or with the vehicle in question from which the recovery of liquor has been made. 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 recovery has been made from a pick up van which was driven by this 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 10.06.2019 in connection with Khodawandpur P.S. Case No. 40 of 2019, pending in the Court of learned Additional District & Sessions Judge 2nd -cum- Special Judge, Excise, Begusarai, is hereby confirmed.



Accordingly, the order dated 10.06.2019 stands modified to the extent of placing the matter after disposal of aforementioned S.LP.

The present application is disposed of.

(Dinesh Kumar Singh, J)

Ashwini/-

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

