

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35651 of 2019**

Arising Out of PS. Case No.-117 Year-2019 Thana- PUNPUN District- Patna

CHANDRAWATI DEVI, W/O Sudeshi Manjhi, Resident of Village-
Allauddin Chak, P.S.- Punpun, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sheo Nandan Pandit, Adv.

For the Opposite Party/s : Mr. Uma Shankar Prasad 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 offence punishable under 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 22.04.2019 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 Chandrawati Devi 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 Special Judge, Excise Act, Patna in connection with Punpun P.S. Case No. 117 of 2019, in Special Case No. 4013 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, 12 litres of country made
liquor has been recovered from the possession of the petitioner.
Hence, the petitioner and other co-accused while travelling on
auto rickshaw were apprehended.

It is submitted by learned counsel for the petitioner
that the recovery has been made from auto rickshaw which does
not belong to the petitioner. 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 the possession 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 10.06.2019 in connection with Punpun P.S. Case
No. 117 of 2019, in Special Case No. 4013 of 2019, pending in the



Court of learned Special Judge, Excise Act, Patna, 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)

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