

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35615 of 2019

Arising Out of PS. Case No.-58 Year-2019 Thana- CHAPRA RAIL P.S. District- Saran

Mubarak Ali Son of Rahaman Miyan @ Abdul Rahman Resident of Village -
Dhanaw, P.S.- Baniyapur, District- Saran at Chapra

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vijay Kumar Srivastva

For the Opposite Party/s : Mr.Anuj Kumar Shrivastava

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 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 02.04.2019 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 petitioner namely, Mubarak Ali 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 District & Sessions Judge, Saran at Chapra in connection with Rail Chapra P.S. Case No. 58 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, 50 litres of Indian Made
Foreign Liquor were recovered from the bag of the petitioner.

It is submitted by learned counsel for the petitioner
that the petitioner has maliciously been framed in the present
case. 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 bag 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 Rail Chapra P.S.
Case No. 58 of 2019, pending in the Court of learned Additional
District & Sessions Judge, Saran at Chapra, is hereby
confirmed.

Accordingly, the order dated 10.06.2019 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/-

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