

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35658 of 2019

Arising Out of PS. Case No.-448 Year-2019 Thana- PHULWARISHARIF District- Patna

1. Shyam Kumar Manjhi S/o Suresh Manjhi R/o village- Kurkuri, P.S.- Phulwari Sharif, District- Patna
2. Santosh Manjhi S/o Suresh Manjhi R/o village- Kurkuri, P.S.- Phulwari Sharif, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rakesh Kumar Sharma, Advocate

For the Opposite Party/s : Mr.Suman Kumari 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 petitioners 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), 37(b), 37(c) 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 petitioners who were in custody since 04.05.2019 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, Shyam Kumar Manjhi and Santosh Manjhi are 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, Patna in connection with Special Case No. 4356 of 2019, arising out of Phulwari P.S. Case No. 448 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, from the house of petitioner no. 1, 13 litres and from the house of petitioner no. 2, 16 litres of country made liquor were recovered.

It is submitted by learned counsel for the petitioners that both the petitioners are own brothers and the recovery has been made from joint family house. The investigation has already been concluded. A statement has been made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent. It is further submitted that there is nothing on record to suggest that the petitioners have misused the privilege of provisional bail.

Learned APP submits that the recovery has been made from the house of the petitioners.

Considering the aforesaid facts and submissions of the parties, particularly the fact that there is nothing on record to suggest that the petitioners have misused the privilege of provisional bail, the provisional bail, granted to the petitioner vide order dated 10.06.2019 in connection with Special Case No. 4356 of 2019, arising out of Phulwari P.S. Case No. 448 of 2019, pending in the Court of learned Special Judge, Excise,



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.L.P.

The present application is disposed of.

(Dinesh Kumar Singh, J)

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