

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36156 of 2019

Arising Out of PS. Case No.-117 Year-2019 Thana- MASHRAK District- Saran

Binod Sah @ Vinod Sah Son of Yogi Sah Resident of Village- Mashrak
Ramghat, Police Station- Mashrak, District- Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mrs. Sanjana

For the Opposite Party/s : Mr.Satya Nand Shukla

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 11-06-2020 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 and 273 of the IPC and Sections 30 and 30(a) of
the Bihar Prohibition and Excise Act, 2016, as amended by
Amendment 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 30.03.2019 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, Binod Sah @ Vinod Sah 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 A.D.J. IX cum Special Judge, Saran at Chapra/concerned court in connection with Mashrak P.S. Case No. 117 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, altogether 8800 litres of spirit were recovered from a truck, a Bolero vehicle and one Tata 407 vehicle when the petitioner was apprehended from the spot.

It is submitted by learned counsel for the petitioner that the seized vehicles do not belong to the petitioner, statement to that effect has been made in paragraph no. 9 of the petition, which reads as follows:-

“That it is also respectfully submitted that neither any incriminating article nor seized vehicle or motorcycle belongs to this petitioner.”

It is further submitted that no recovery has been made from the conscious physical possession of 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 petitioner was apprehended from the spot.

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 Mashrak P.S.
Case No. 117 of 2019, pending in the Court of learned A.D.J. IX
cum Special 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.

Accordingly, the present application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

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