

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL MISCELLANEOUS No.36185 of 2019**

Arising Out of PS. Case No.-48 Year-2019 Thana- GOVERNMENT OFFICIAL COMP.  
District- Buxar

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Chhotak Kumar Son of Loha Singh @ Loha Yadav Resident of Village-  
Chhotaki Sarimpur, P.S-Buxar (T), District-Buxar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.Rajeev Ranjan  
For the Opposite Party/s : Mr.Khurshid Anwar

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**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 offence punishable under  
Section 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 26.04.2019 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, Chhotak Kumar 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 Sessions Judge 2<sup>nd</sup> cum Special Judge Excise Act, Buxar/concerned court in connection with Excise Case No. 48(O) 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, 26.280 litres of Indian Made Foreign Liquor were recovered from the possession 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 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 Excise Case No. 48(O) of 2019, pending in the Court of learned Additional Sessions Judge 2<sup>nd</sup> cum Special Judge Excise Act, Buxar, 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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