

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36163 of 2019**

Arising Out of PS. Case No.-169 Year-2019 Thana- PATNA CITY CHOWK District- Patna

Vinod Ray Son of Rama Ray Resident of Village- Nuruddinganj, Police
Station- Malsalami, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manish Kumar No2

For the Opposite Party/s : Mrs. Anita Kumari

**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 273/34 of the IPC and Sections 30(a) and
37(c) of the Bihar Prohibition and Excise Act, 2016, as amended
by Amendment Act 8 of 2018, hereinafter referred to as ‘the
Act’).

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 petitioner namely, Vinod Ray 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 Special Judge-Excise Act, Patna/concerned court in connection with Special Case No. 4014 of 2019 (arising out of Chowk P.S. Case No. 169 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, 10 litres of country made liquor were recovered from the possession of the petitioner and other co-accused person when the petitioner and other co-accused persons were also found in inebriated condition.

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. Moreover, seizure has been made by an A.S.I., who is not authorized to make seizure under Section 73(e) of the Act. 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 and he was also found in inebriated condition.

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 Special Case



No. 4014 of 2019 (arising out of Chowk P.S. Case No. 169 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.L.P.

The present application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

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