

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67036 of 2019

Arising Out of PS. Case No.-83 Year-2019 Thana- VAISHALI District- Vaishali

SUJEET KUMAR @ SUJEET KUMAR YADAV Son of Shivchandra Prasad
Yadav Resident of Village - Manora, P.S.- Vaishali (Belsar O.P.), Dist. -
Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Surendra Kishore Thakur, Adv.

For the Opposite Party/s : Mr. J. N. Thakur, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

6 09-06-2020 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner is apprehending arrest 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 (hereinafter referred to as 'the Act').

The prosecution case as per the written report of Prem Kumar Singh, S.I., Belsar (O.P.) Police Station submitted before the S.H.O., Belsar (O.P.) Police Station is to the effect that on 05.03.2019 at 3.15 P.M., the informant was on patrolling duty when he received information from the SHO, Belsar O.P is to the effect that the petitioner, Sujeet Kumar has stored liquor in his plot situated behind his house whereupon a



raid was laid and consequently 30 litres of country made liquor and 1000 litres of fermented jaggery were recovered from the plot of the petitioner.

It is submitted by learned counsel for the petitioner that the recovery has not been made from the conscious physical possession of the petitioner. A statement to that effect has been made in paragraph no.15 of the petition that neither the recovery of the liquor nor the place of recovery belongs to the petitioner. Hence, the embargo under Section 76(2) of the Act does not apply against the petitioner. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP for the State submits that the FIR suggests that the place of recovery belongs to the petitioner.

Considering the statement made in paragraph no. 13 of the petition to the effect that the place of recovery does belong to the petitioner coupled with statement made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, let the petitioner above named be released on provisional anticipatory bail for three months, in the event of arrest or surrender before the learned Court below within a period of 6 weeks from today, on furnishing one surety



to the satisfaction of the ADJ-II-cum-Special Judge (Excise), Vaishali at Hajipur, in connection with Vaishali P.S. Case No.83 of 2019.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional anticipatory bail of the petitioner will be confirmed by the learned Court below within three months, on verification from the revenue record that the land from which the recovery has been made does not belong to the petitioner, on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties, including one surety given at the time of provisional bail of the like amount each to the satisfaction of the ADJ-II-cum-Special Judge (Excise), Vaishali at Hajipur, in connection with Vaishali P.S. Case No.83 of 2019, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

It is made clear that the learned Court below will not confirm the provisional bail of the petitioner, if on verification



from the revenue record it transpired that the land in question from where the seizure has been made belongs to the petitioner in that eventuality, the petitioner will surrender and pray for regular bail.

(Dinesh Kumar Singh, J)

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