

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69852 of 2019

Arising Out of PS. Case No.-585 Year-2019 Thana- KATIHAR District- Katihar

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GANGA PASWAN Son of Late Ramji Paswan Resident of Mohallah- Sitala
Asthan, P.S.- Sahayak, District- Katihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Bimal Kumar

For the Opposite Party/s : Mr.Khurshid Anwar

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

6 15-06-2020 The matter has been taken up through virtual Court
proceeding.

Heard learned counsel for the petitioner and
learned counsel for the State.

The petitioner is apprehending arrest in a case
registered for the offences punishable under Sections 30(a)
and 37(b) of the Bihar Prohibition and Excise Act, 2016 as
amended by Act 8 of Amendment Act, 2018.

The prosecution case, as per the written report of
Mukesh Kumar, S.I. of Police, Sahayak Police Station,
Katihar submitted to the SHO, Sahayak Police Station,
Katihar, is to the effect that on 5.9.2019, on the basis of
confidential information received from the police
headquarter, an auto rickshaw was intercepted, in which, two



persons were found sitting but on seeing the police party, one person managed to escape while the other person was apprehended who was driving the auto rickshaw, who disclosed his name as Pradeep Kumar Paswan. He further disclosed the name of the person who escaped from the scene as Gangal Paswan (petitioner). It is alleged that from the auto rickshaw in question, 48.500 litres country made liquor was recovered.

It is submitted by learned counsel for the petitioner that the recovery has not been made from the conscious physical possession of the petitioner. It is further submitted that as per the disclosure made by the apprehended co-accused, the age of the person, who escaped from the spot, is 24 years whereas the age of the petitioner is 55 years. Statement to that effect has been made in paragraph 11 of the petition and except the statement of the driver of the auto rickshaw in question, no other cogent material has been collected against the petitioner during investigation. Petitioner is also named in one other case under the Excise and Prohibition Act in which he is on bail.

Learned APP submits that the petitioner escaped from the scene and he was travelling in the auto rickshaw



from which recovery has been made.

Considering the fact that the recovery has not been made from the conscious physical possession of the petitioner and the age of the person who escaped from the scene, as being disclosed by the apprehended co-accused as 24 years whereas petitioner is aged 55 years old, let the petitioner above named, in the event of arrest or surrender within six weeks, be released on anticipatory bail for the present, provisionally for a period of three months on furnishing one surety to the satisfaction of the learned ADJ II-cum-Special Judge, Excise Act, Katihar in connection with Nagar (Sahayak) P.S. Case No. 585 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 furnishing bail bond of Rs.10000/- (ten thousand)



with two sureties of the like amount each to the satisfaction of the learned ADJ II-cum-Special Judge, Excise Act, Katihar including one surety given at the time of provisional anticipatory bail.

The learned Court below will be at liberty to further extend the period of provisional bail if the Court proceeding in physical mode will not resume in three months.

(Dinesh Kumar Singh, J)

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