

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69928 of 2019

Arising Out of PS. Case No.-177 Year-2019 Thana- DINARA District- Rohtas

VIBHESH RAJ, S/o Upendra Nath Tiwary, Resident of - Shiv Temple, Lakari Khurd, Lakari Dargah, P.S.- Siwan Muffasil, District- Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Tej Pratap Singh, Adv.
For the Opposite Party/s : Mr. Kalyan Shankar, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 09-06-2020 The matter has been taken up through virtual Court proceeding.

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.

The prosecution case as per the self statement of Rajesh Kumar, S.I. Dinara Police Station, recorded on 10.07.2019 at 6.00 A.M. is to the effect that on 09.07.2019, during night patrolling, one Mahindra Marazzo and a Scorpio vehicle was intercepted and driver and co-driver of Mahindra Marazzo vehicle's were apprehended who disclosed their



names as Vikrant Pandey and Vijay Kumar Sahni. They further disclosed the name of the driver of the Scorpio vehicle as Aakash Yadav and owner of the vehicle as Rai Jee. During frisking, from the Mahindra Marazzo vehicle, 430 litres of Indian Made Foreign Liquor were recovered whereas from the Scorpio vehicle, 343 litres of Indian Made Foreign Liquor were recovered. The petitioner is the owner of Mahindra vehicle.

It is submitted by learned counsel for the petitioner that the petitioner is an MBBS doctor at B.H.U, Varanasi and in fact the vehicle in question was misused by the apprehended driver. The petitioner had no knowledge about the liquor being carried through his vehicle and the owner of the Scorpio vehicle co-accused, Raju Sonkar has been granted anticipatory bail by a Co-ordinate bench of this Court vide order dated 19.11.2019 passed in Criminal Miscellaneous No. 50821 of 2019. 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 recovery has been made from the possession of the petitioner.

Considering the fact that the prosecution case does not



suggest that the petitioner was traveling in the vehicle in question at the time of seizure of the liquor and similarly situated co-accused, being owner of the other vehicle from which also recovery has been made, has been granted bail by a Co-ordinate bench of this Court 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 learned ADJ-II-cum-Special Judge (Excise), Rohtas at Sasaram, in connection with Dinara P.S. Case No.177 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.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 learned ADJ-II-cum-Special Judge (Excise), Rohtas at Sasaram, in connection with Dinara P.S. Case No.177 of 2019, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

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

(Dinesh Kumar Singh, J)

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