

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74823 of 2019

Arising Out of PS. Case No.-248 Year-2019 Thana- KARJA District- Muzaffarpur

BHUP SINGH Son of Krishna Kumar Resident of Village- Shahpur, Police Station - Jind, District - Jind (Haryana).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Rajiv Ranjan
		Mr. Ravi Nandan, Advocates
For the Opposite Party/s :		Mrs. Renu Kumari, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 12-05-2020 Heard.

The proceeding has been conducted through video conferencing.

The petitioner has preferred the present application for grant of bail in a case registered for the offences punishable under Sections 272 and 273/34 of the IPC and Sections 30(a) and 38 of Bihar Prohibition and Excise Act, 2016 as amended by Act 8 of 2018 since he is languishing in custody since 12.9.2019.

The prosecution case as per the self statement of Saroj Kumar, SHO, Kajra Police Station, recorded on 11.9.2019 at 9.10 A.M., is to the effect that while the informant was returning after performing duty on the eve of Muharram procession, he received a secret information on



11.9.2019 at 4.30 A.M. that in the village Marwan at NH 722, one truck bearing registration no. HR 46B-5003 and a Bolero jeep bearing registration no. BR 06 PC 1972 were parked side by side and eight persons were unloading liquor from the truck. Consequently, the raid was laid and four persons, namely, Kundan Singh, claiming to be the driver of the truck, Basau Kumar claiming to be the cleaner of the truck, Bhup Singh (the petitioner) and Sushil Kumar Ojha claiming to be the driver-cum-owner of the Bolero vehicle, were apprehended on the spot. However, four persons managed to escape whose names were disclosed by the apprehended accused persons as Bhola Rai, Rakesh Kumar, Balraj Singh and Anil. From the truck in question, 3398 litres and from the Bolero vehicle, 99 litres of Indian made foreign liquor were recovered, leading to registration of the present FIR.

Learned counsel for the petitioner submits that the petitioner was standing near the seized truck in question since his truck was also parked near the same. It is further submitted that no recovery has been made from the conscious physical possession of the petitioner. Statement has been made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent. The investigation has already



been concluded. Moreover, the main accused, the driver and cleaner of the truck in question, namely Kundan Singh and Basau Kumar have been granted bail by a co-ordinate bench of this Court vide order dated 21.1.2020 passed in Cr. Misc. No. 767 of 2020.

Mrs. Renu Kumari, learned APP submits that huge quantity of liquor has been recovered, however, she has not controverted the submission of learned counsel for the petitioner that the driver and cleaner of the truck in question have been granted bail.

Though the present FIR has been registered also under Section 38 of the Act which was a penal offence under the 2016 Act prescribing penalty for possession or knowledge of possession of intoxicant but the same has been deleted after coming into effect the Amendment Act 8 of 2018 with effect from 30.7.2018 whereas in the present case FIR was registered on 11.09.2019.

Considering the fact that the recovery has been made from the truck and Bolero vehicles in question, to which petitioner claims to be not connected, the petitioner was not apprehended from the vehicles in question, the investigation has already been concluded and the fact that the



driver and the cleaner of the truck in question have already been granted bail coupled with the statement made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent, let the petitioner above named be released on bail for the present provisionally for a period of three months on furnishing one surety to the satisfaction of the learned Special Judge, Excise, Muzaffarpur in connection with Kajra P.S. Case No.248 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 if the bailor, on photo copy of his Adhar Card, gives undertaking to the effect that he is ready to become the bailor of the petitioner and transmits the same to the learned Court concerned through e-mode. The learned Court below may be conscious of the fact that the petitioner is resident of Haryana and hence, he may put other such conditions as desirable for securing regular appearance of the petitioner.

The provisional 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 Special Judge, Excise, Muzaffarpur in connection



with Karja P.S. Case No.248 of 2019 including one surety
given at the time of provisional bail.

The learned Court below will further be at liberty
to extend the period of provisional bail further if the
lockdown is not over in three months.

(Dinesh Kumar Singh, J)

anil/-

U			
---	--	--	--

