

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32 of 2020

Arising Out of PS. Case No.-290 Year-2018 Thana- JAKKANPUR District- Patna

CHANDAN KUMAR S/o Late Gopal Pd. Resident of Sipara Matkhan, P.S.-
Beur, Distt.- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Tilak Sao

For the Opposite Party/s : Mr.Sangeeta Sharma

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 11-06-2020 The matter has been taken up through virtual court proceeding.

Heard learned counsel for the petitioner and the State.

The petitioner, who is languishing in custody since 10.09.2019, has preferred the present application for grant of bail in a case registered for the offences punishable under Section 30(a), 38 and 41 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 A.S.I., Jitendra Prasad Yadav, submitted to the S.H.O., Jakkanpur Police Station is to the effect that 26 litres of Indian Made Foreign Liquor were recovered from the house of co-accused Chhotu Yadav when the villagers disclosed the name of



the petitioner as one of the visitors to the house of co-accused Chhotu Yadav.

It is submitted by learned counsel for the petitioner that the recovery has not been made from the conscious physical possession of the petitioner and the petitioner was not apprehended from the spot. It is further submitted that the investigation has already been concluded and the seizure has been made by the officer of the rank of the A.S.I. of Police which is contrary to the mandate of Section 73(e) of the Act. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

It is submitted by learned counsel for the State that the petitioner was found in league with co-accused Chhotu Yadav, from whose house, recovery has been made.

Considering the fact that period under custody, seizure being made by an A.S.I., who is not authorized under the Act to make such seizure and investigation already being concluded coupled with the fact 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 Act, Patna in connection with



Special Case No. 61093 of 2018, arising out of Jakkanpur P.S.
Case No. 290 of 2018.

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 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 including one surety given at the time of provisional bail of the like amount each to the satisfaction of Special Judge, Excise Act, Patna in connection with Special Case No. 61093 of 2018, arising out of Jakkanpur P.S. Case No. 290 of 2018..

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

(Dinesh Kumar Singh, J)

Amrendra/-

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