

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3181 of 2020

Arising Out of PS. Case No.-106 Year-2018 Thana- MUSRIGHRARI District- Samastipur

MD. AARIF ALI @ AARIF ALI @ AARIF S/O Akhatar Ali Resident of
Village Dola, P.S. Alimnagar, District - Bajpat (U.P.).

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bijay Bhushan Prasad

For the Opposite Party/s : Mr.Suresh Prasad Singh

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 counsels for the petitioner and the State.

The petitioner, who is languishing in custody since 25.11.2019, has preferred the present application for grant of bail in a case registered for the offences punishable under Sections 272 and 273 of the IPC and Sections 30(a) and 47 of the Bihar Prohibition and Excise Act, 2016, as amended by Amendment Act 8 of 2018.

The prosecution case, as per the written report of



A.S.I. Uma Shankar Ram, submitted to the S.H.O., Musrigharari Police Station is to the effect that on 03.08.2018 at about 10 P.M., during patrolling, a truck was intercepted and 244 cartoons Indian Made Foreign Liquor were recovered from same, wherein four co-accused persons were found sitting. The name of the petitioner sprang up on the confession made by the apprehended co-accused persons as the owner of the truck in question.

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 aware about the illicit liquor being transported through the vehicle in question. It is further submitted that the investigation has already been concluded. A statement has been made in paragraph no.3 of the petition that the petitioner is accused in one other case in which he is on bail. Moreover, the seizure has been made by an officer below the rank of S.I., who is not authorized to make seizure under Section 73(e) of the Act.

Learned APP submits that the petitioner is the owner of the truck from which the seizure has been made.

Considering the fact that investigation has already been concluded and period under custody, the seizure being



made by an officer who is not authorized under the Act to make such seizure, 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 Additional Sessions Judge 2nd cum Special Judge, Excise, Samastipur in connection with Musrigharari P.S. Case No. 106 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 Additional Sessions Judge 2nd cum Special Judge, Excise, Samastipur in connection with Musrigharari P.S. Case No. 106 of 2018 subject to the condition that one of the bailors must be local.

Learned Court below will be at liberty to cancel the



bail bonds of the petitioner if he default for three consecutive occasions during trial.

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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