

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 18384 of 2021

Arising Out of PS Case No.-225 Year-2020 Thana- SUPPI District- Sitamarhi

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Virendra Rai, aged about 30 years, Gender-Male Son of Baidhnath Rai,
Resident of Village- Sona Khan, PS- Suppi, District- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Birendra Kumar, Advocate
For the State : Mr. Amitesh Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 09-06-2021

The matter has been heard *via* video conferencing.

2. The case has been heard out of turn on the basis of motion slip filed by learned counsel for the petitioner yesterday, which was allowed.

3. Heard Mr. Birendra Kumar, learned counsel for the petitioner and Mr. Amitesh Kumar, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

4. The petitioner apprehends arrest in connection with Suppi PS Case No. 225 of 2020 dated 20.09.2020, instituted under Sections 272, 273 of the Indian Penal Code and 30(a) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the 'Act').



5. The allegation against the petitioner is that when police on information that he along with three other persons had bought illicit wine from Nepal and kept it in a bush in Rampur Kanth village near an embankment, when the police reached, they saw two persons who started fleeing away but one was caught namely Dahaur Paswan who disclosed the name of another co-accused Rambabu Paswan as the person who had fled away. From there, 1050 bottles of Nepali sofi wine totalling 315 litres was recovered. It is alleged that the arrested person disclosed that the wine was of the petitioner and another co-accused Subodh Kumar Singh.

6. Learned counsel for the petitioner submitted that he has no connection with the recovered wine and has been falsely implicated. It was submitted that even as per the FIR, he was not the person present at the spot as another co-accused has been named as the person who had run away. Learned counsel submitted that only on the bald confessional statement of the arrested person, that too before the police, the petitioner has been made an accused and has no criminal antecedent. Thus, it was submitted that the bar of Section 76(2) of the Act would not apply as the recovered wine cannot be legally connected to the petitioner.



7. Learned APP submitted that the person who was caught has named the petitioner as the owner of the recovered liquor.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District and Sessions Judge-II-cum-Special Judge (Excise Act), Sitamarhi in Suppi PS Case No. 225 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, (i) that one of the bailors shall be a close relative of the petitioner, (ii) that the petitioner and the bailors shall execute bond with regard to good behaviour of the petitioner, and (iii) that the petitioner shall also give an undertaking to the Court that he shall not indulge in any illegal/criminal activity, act in violation of any law/statutory provisions, tamper with the evidence or influence the witnesses. Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of his bail bonds. The petitioner shall cooperate in the case and be present before the



Court on each and every date. Failure to cooperate or being absent on two consecutive dates, without sufficient cause, shall also lead to cancellation of his bail bonds.

9. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioner, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner.

10. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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