

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 37479 of 2021

Arising Out of PS. Case No.-97 Year-2020 Thana- RAGHOPUR (RUSTAMPUR OP)
District-Vaishali

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Kapleshi Rai @ Kapeshi Rai @ Papleshi Rai, aged about 28 years, Gender-
Male, son of Santa Rai, Resident of Village-Sukumarpur, P.S. Raghampur
(Rustampur OP), District Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ravish Mishra, Advocate
For the State : Mr. Ajit Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 03-08-2021

The matter has been heard *via* video conferencing.

2. The case has been taken up out of turn on the basis
of motion slip filed by learned counsel for the petitioner on
26.07.2021, which was allowed.

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

4. The petitioner apprehends arrest in connection with
Roghampur (Rustampur OP) PS Case No. 97 of 2020 dated
23.06.2020, instituted under Sections 414/34 of the Indian Penal
Code and 30(a)(d) of the Bihar Prohibition and Excise Act,



2016 (hereinafter referred to as the 'Act').

5. The allegation against the petitioner and ten others is that they were indulging in the business of liquor and when the police on prior information had gone to the spot, they had run away leaving behind two motorcycles and from the spot, 40 litres of countrymade liquor along with drums used for making countrymade liquor has been recovered.

6. Learned counsel for the petitioner submitted that only on suspicion and false accusation, he has been implicated in the case and that there is no reliable identification that he was also one of the persons who had run away when the police had come to the place. It was submitted that neither the motorcycle nor the place from which the recovery has been made belongs to the petitioner and he has no other criminal case. Thus, it was contended that in the absence of anything to connect the petitioner to the recovered materials, the bar of Section 76(2) of the Act would not apply in the present case.

7. Learned APP submitted that there has been recovery of countrymade liquor and the petitioner is also named as one of the persons who had fled away from the place.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the



Court finds that for the purposes of forming a tentative view, taking into consideration the fact that ownership of the motorcycle from which recovery has been made having been specifically denied as also no other criminal case being against him, as stated on oath in the present petition, the Court is inclined to allow the prayer.

9. Accordingly, 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 Sessions Judge-II-cum-Excise Court, Vaishali at Hajipur in Roghopur (Rustampur OP) PS Case No. 97 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.

10. 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.

11. The petition stands disposed of in the aforementioned terms.

(Ahsanuddin Amanullah, J)

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