

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28052 of 2020**

Arising Out of PS. Case No.-195 Year-2020 Thana- GOVERNMENT OFFICIAL COMP.
District- East Champaran

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Niyaz Ahamed (Male), aged about 53 years, Son of Nisar Ahmed, Resident of
Mohalla - A/5, New Transport Nagar Gorakhpur, Distt. - Gorakhpur (U.P.)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Rajeev Ranjan with Mr. Vikas Kumar, Advocates
For the State	:	Mr. Jharkhandi Upadhyay, APP

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

Date : 25-01-2021

Heard Mr. Rajeev Ranjan, learned counsel along with
Mr. Vikas Kumar, learned counsel for the petitioner and Mr.
Jharkhandi Upadhyay, learned In-charge Additional Public
Prosecutor (hereinafter referred to as the ‘APP’) for the State.

2. The petitioner apprehends arrest in connection with
Excise Case No. 195 of 2020 dated 26.04.2020, instituted under
Sections 30(a)(f)/31/32/38/41(1)/47 of the Bihar Prohibition and
Excise Act, 2016 (hereinafter referred to as the ‘Act’).

3. The allegation against the petitioner is that from the
tanker which was owned by him ethanol was being stolen.

4. Learned counsel for the petitioner submitted that the
prosecution against him is totally vexatious. It was submitted



that the tanker in question belonged to the Indian Tankers Private Limited and was registered in the year 2005. Learned counsel submitted that when the tanker was bought, it was the Company which had bought the tanker, though the name of the petitioner as a Director was written in the ownership book. It was submitted that the petitioner has retired from the post of Director on 11.05.2015 and the same was also duly communicated to the Registrar of Companies. Learned counsel further submitted that he was not caught and others were alleged to have been caught stealing the ethanol and, thus, no offence is made out against the petitioner under the Act. It was submitted that the petitioner has no criminal antecedent.

5. Learned APP submitted that the name of the petitioner is mentioned in the ownership book. However, he could not deny that in the registration certificate, copy of which has been brought on record, it is in the name of the Company.

6. 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 Sessions Judge-cum-Special Judge, State Excise, East Champaran at Motihari in Excise Case No. 195 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973.

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

(Ahsanuddin Amanullah, J)

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