

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31717 of 2020

Arising Out of PS. Case No.-68 Year-2020 Thana- MOTIPUR District- Muzaffarpur

Jagarnath Rai, aged approx 42 years, Male, Son of Late Sukhdeo Rai,
Resident of Village - Sarha Damber, P.S. - Motipur, District - Muzaffarpur
... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur with Ms. Vaishnavi Singh, Advocates
For the State	:	Ms. Veena Kumari Jaiswal, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 09-02-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Ajay Kumar Thakur, learned counsel along with Ms. Vaishnavi Singh, learned counsel for the petitioner and Ms. Veena Kumari Jaiswal, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioner apprehends arrest in connection with Motipur PS Case No. 68 of 2020 dated 21.03.2020, instituted under Sections 272/273 of the Indian Penal Code and 30(a)/41(1)(2) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the 'Act').

4. The allegation against the petitioner is that he was assisting Gopal Choudhary from whose house there was recovery of 1295.660 litres of liquor and that on seeing police



raiding party he along with others had run away.

5. Learned counsel for the petitioner submitted that there is nothing to connect the petitioner to the recovery as neither it is in his house nor the mobile which was seized by the police in the house of Gopal Choudhary belongs to him and that he has no connection with Gopal Choudhary as he is resident of another village. It was further submitted that only on the basis of suspicion, without any material to link the petitioner to the recovery, he has been made accused and, thus, the bar of Section 76(2) of the Act would not apply in the facts of the present case. Learned counsel submitted that the petitioner is accused in one other case which is under minor sections of the Indian Penal Code for an incident relating to a *dharna* being organized.

6. Learned APP submitted that the petitioner is accused of assisting Gopal Choudhary from whose house recovery has been made.

7. 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 Special Judge Excise, Muzaffarpur in Motipur PS Case No. 68 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.

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

(Ahsanuddin Amanullah, J)

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