

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31993 of 2020

Arising Out of PS. Case No.-209 Year-2020 Thana- GOVERNMENT OFFICIAL COMP.
District- East Champaran

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Bhutta Mukhiya @ Manager Mukhiya, aged about 38 years (M), Son of
Narayan Mukhiya, Resident of Village - Basantpur, P.S.- Mufasil, District -
East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abhishek Kumar, Advocate
For the State : Mr. Uday Pratap Singh, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 05-03-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Abhishek Kumar, learned counsel for the
petitioner and Mr. Uday Pratap Singh, learned Additional Public
Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioner apprehends arrest in connection with
Excise Case No. 209 of 2020 dated 22.05.2020 instituted under
Sections 30(a)/41(1) of the Bihar Prohibition and Excise Act,
2016 (hereinafter referred to as the ‘Act’).

4. The allegation against the petitioner is that when the
police on secret information went to raid, from the house of co-
accused Visheshwar Sahani and the field situated beside his



house, 610 litres of spirit was recovered and all the accused, including the petitioner, fled away.

5. Learned counsel for the petitioner submitted that no source of identification has been mentioned in the FIR which makes it clear that the petitioner has been falsely implicated. Learned counsel submitted that the recovery of spirit is from the house and the field next to the house, of co-accused Visheshwar Sahani, and the petitioner has no connection with the recovered spirit. It was submitted that the bar of Section 76(2) of the Act would not apply in the present case since the petitioner has no criminal antecedent and also that there is no nexus between him and the recovered spirit and nothing has been recovered from his premises.

6. Learned APP submitted that the petitioner was indulging in the business of illicit liquor and the recovered spirit was also being dealt with by him and, thus, he cannot plead innocence.

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 7th Additional Sessions Judge-cum-Special Judge, Excise, Motihari, East Champaran in Excise Case No. 209 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. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioners, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner(s).



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

(Ahsanuddin Amanullah, J)

Anjani/-

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