

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34008 of 2020

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

Naresh Sahani, aged about 30 years (M), Son of ----- Resident of
Village- Watganj, P.S.- Pipra, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Abhishek Kumar, Advocate
For the State : Ms. Sharda Kumari, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 26-03-2021

The matter has been heard *via* video conferencing.

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

3. 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’).

4. The allegation against the petitioner is that he was in the business of illicit liquor and was linked to the seizure of 25000 litres of illicit spirit from a tanker and 220 litres of spirit from a pick-up van.

5. Learned counsel for the petitioner submitted that the



petitioner was neither caught nor is the owner of the tanker and the pick-up van. It was submitted that he has no connection to the tanker or the pick-up or even the other co-accused and with *mala fide* intention at the instance of his enemies has been named as an accused. Learned counsel submitted that how the police have made him a party has not been disclosed in the FIR. Learned counsel submitted that even the place from where the recovery has been made does not belong to the petitioner.

6. Learned APP submitted that the police had gone to the spot only after receiving specific information in advance with regard to the persons indulging in the business of illicit liquor and when they reached there the culprits had run away and the petitioner was among the persons who had fled away from the spot. It was submitted that if the contention of the petitioner is true that he was not known to any of the accused and even then his specific identity being disclosed in the FIR clearly indicates that there is no false implication and further, recovery of more than 25000 litres of spirit clearly indicates that there was big business of illicit liquor being run by the accused and since in the FIR the petitioner is named as one of them, at this stage, there is nothing to disbelieve such allegation. It was contended that an application under Section 438 of the Code of



Criminal Procedure, 1973 has been barred under Section 76(2) of the Act.

7. In the aforesaid background, as also taking an overall view in the matter, the Court is not inclined to grant pre-arrest bail to the petitioner.

8. Accordingly, the application stands dismissed.

9. However, in view of submission of learned counsel for the petitioner, it is observed that if the petitioner appears before the Court below and prays for bail within four weeks from today, the same shall be considered on its own merits, in accordance with law, without being prejudiced by the present order.

(Ahsanuddin Amanullah, J)

Anjani/-

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