

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36603 of 2020**

Arising out of PS. Case No.-115 Year-2020 Thana- NOWKOTHI GARHPURA District-
Begusarai

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Rahul Kumar, (Male), aged about 23 years, Son of Vakil Sahni, Resident of
village - Hasanpur Bazar, P.S. - Nawkothe, District – Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nasrul Hoda Khan, Advocate
For the State : Mr. Ajay Kumar Jha, APP

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

Date : 01-07-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Nasrul Hoda Khan, learned counsel for the
petitioner and Mr. Ajay Kumar Jha, learned Additional Public
Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioner apprehends arrest in connection with
Nawkothe PS Case No. 115 of 2020 dated 29.07.2020, instituted
under Section 30(a) of the Bihar Prohibition and Excise Act, 2016
(hereinafter referred to as the ‘Act’).

4. As per the FIR, the police received information that
the petitioner and Lakshmi Sahani were indulging in the business
of liquor and when the police reached the house of co-accused
Lakshmi Sahani and asked to search he did not permit them to
enter and, thus, they went into the backyard and from there liquor



of various brands totalling 16.2 litres and 7.2 litres of country-made wine was recovered kept in two bags. It is alleged that the co-accused Lakshmi Sahani and petitioner ran away from the spot.

5. Learned counsel for the petitioner submitted that the police is said to have gone to the house of co-accused Lakshmi Sahani at 9.15 PM when it was dark and, thus, there could not have been any identification of the petitioner as the house was not of the petitioner. It was further submitted that whatever has been recovered is from the house of co-accused Lakshmi Sahani. Thus, it was submitted that as there is no nexus between the recovered liquor and the petitioner, bar of Section 76(2) of the Act shall not apply. Further, it was submitted that the petitioner has no criminal antecedent.

6. Learned APP submitted that the petitioner has been identified as one of the two persons who had run away from the spot. However, it was not controverted that the recovery has been made from the backyard of co-accused Lakshmi Sahani.

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 Additional Sessions Judge-II-cum-Special Judge, Excise Act, Begusarai in Nawkothi PS Case No. 115 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 petitioner, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner.



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

(Ahsanuddin Amanullah, J)

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