

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36639 of 2020

Arising Out of PS. Case No.-152 Year-2020 Thana- SURYAGARHA District- Lakhisarai

Kanhaiya Singh, aged about 34 years, Gender- Male, son of Bhaso Singh,
resident of village - Ramchandarpur, P.S. - Suryagrha, District - Lakhisarai
... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mayank Bilochan, Advocate
For the State : Mr. Binod Kumar No. 3, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 12-07-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Mayank Bilochan, learned counsel for the petitioner and Mr. Binod Kumar No. 3, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioner apprehends arrest in connection with Suryagarha PS Case No. 152 of 2020 dated 11.08.2020, instituted under Section 30(a) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the 'Act').

4. The allegation against the petitioner is that he was involved with recovery of liquor from a mini truck and boat totalling 970.800 litres.

5. Learned counsel for the petitioner submitted that



when the police on information that illegal wine of co-accused, Rambaran Yadav, was being taken towards Surjichak river ghat by mini truck, reached there, 8-10 persons started fleeing away and the police tried to catch them, but due to darkness they fled away and the local Chaukidar, spy and villagers had identified them as Rambaran Yadav, Kanhaiya Singh (petitioner), Munna Singh and Niraj Singh. It was submitted that very identification is doubtful for the reason that when due to darkness the culprits had run away, there was no occasion for any person, be it the Chaukidar or the villagers to have identified the petitioner and others. Further, it was submitted that neither the mini truck nor the boat nor the recovered liquor belongs to the petitioner and nothing has been recovered from his house or property. Learned counsel submitted that Rambaran Yadav has been granted anticipatory bail by a coordinate Bench in Cr. Misc. No. 2982 of 2021 by order dated 19.05.2021. It was submitted that the petitioner has no other criminal antecedent and further, since there is nothing to legally connect the petitioner to the recovered liquor or the mini truck or the boat, the bar of Section 76(2) of the Act would not apply in the present case.

6. Learned APP submitted that the petitioner was identified as one of the four persons who ran away from the spot



and was identified by the Chaukidar, spy and villagers. However, it was not controverted that the occurrence took place between 06.30-09.30 PM and that the accused had managed to flee in the cover of darkness.

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 Additional District & Sessions Judge-II-cum Special Judge, Excise, Lakhisarai, in Suryagarha PS Case No. 152 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 petition stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

J. Alam/-

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