

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35557 of 2020

Arising Out of PS. Case No.-39 Year-2020 Thana- AHIYAPUR District- Muzaffarpur

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Dipak Kumar @ Dipak Kumar Rai @ Dipak Rai (Male-25 years), son of late Sakaldeo Rai, resident of Village- Mithan Sarai, P.S.- Ahiyapur, District- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Bhavesh Kumar, Advocate
For the State	:	Mr. Sanjay Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 22-06-2021

The matter has been heard *via* video conferencing.

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

3. The petitioner apprehends arrest in connection with Ahiyapur PS Case No. 39 of 2020 dated 09.01.2020, instituted under Sections 272, 273 of the Indian Penal Code and 30(a), 36, 38 of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the ‘Act’).

4. The allegation against the petitioner is that upon information when the police went to the spot, from bamboo clump of co-accused, Chandan Sahani, three persons were seen sitting and talking and on seeing the police, they managed to



escape and from the spot 350.475 litres foreign liquor was recovered and the villagers, who had assembled, informed that the petitioner was also engaged along with Chandan Sahani and others in liquor trade.

5. Learned counsel for the petitioner submitted that he has no criminal antecedent and the recovery is not from his house and, thus, the same cannot be connected to him and further, that as per the allegation itself, the villagers had taken the name of the petitioner to have been dealing in liquor along with co-accused, Chandan Sahani, from whose bamboo clump the liquor has been recovered. Thus, learned counsel submitted that as there is nothing to connect the recovered liquor to the petitioner, the bar of Section 76(2) of the Act shall not apply.

6. Learned APP submitted that villagers had taken the name of the petitioner as being involved in the business of liquor with Chandan Sahani. However, it was not controverted that there is no recovery from the house of the petitioner and further, that villagers have taken his name along with others in dealing in the liquor along with Chandan 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 learned Special Judge, Excise, Muzaffarpur, in Ahiyapur PS Case No. 39 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)

J. Alam/-

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