

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 36632 of 2020

Arising Out of PS Case No.-38 Year-2020 Thana- KOTWA District- East Champaran

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Vijay Yadav, aged about 30 years, Male, Son of Yogi Rai, Resident of
Village - Dipau, P.S.- Kotwa, 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. Md. Arif, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 05-07-2021

The matter has been heard *via* video conferencing.

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

3. The petitioner apprehends arrest in connection with Kotwa (Bhopatpur O.P.) PS Case No. 38 of 2020 dated 30.01.2020, instituted under Sections 272/273/337/338/34 of the Indian Penal Code and 30(a) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the ‘Act’).

4. The allegation against the petitioner is that two vehicles collided with each other and when the police reached, the driver of both the vehicles fled away and the villagers and the police spy disclosed that the petitioner was the driver of the



pick-up van and co-accused Sanoj Kumar Yadav was the driver of a Santro Car, both of whom had fled away and from the pick-up van driven by the petitioner, 8.280 litres of foreign liquor was seized.

5. Learned counsel for the petitioner submitted that he was neither caught nor source of identification has been disclosed as it is vaguely stated that the villagers and police spy disclosed that the petitioner was the driver of the pick-up van. It was submitted that the accident occurred at a place where it is not expected that the people who gathered there would recognize the petitioner in any manner. Learned counsel submitted that the petitioner has no connection, either with the pick-up van or with the recovered liquor. It was submitted that the petitioner has no criminal antecedent Thus, it was contended that as there is nothing to connect the petitioner to the recovered liquor, the bar of Section 76(2) of the Act would not come into play.

6. Learned APP submitted that the petitioner was the driver of the pick-up van from which there is recovery of liquor. However, it was not controverted that the police came due to the accident of two vehicles and that the source of who had identified the petitioner as the driver of the pickup van has not



been mentioned in the FIR.

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 Kotwa (Bhopatpur O.P.) PS Case No. 38 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, (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, and (iv) that the petitioner shall cooperate with the Court and police/prosecution. Any violation of the terms and conditions of the bonds or the undertaking or failure to cooperate shall 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)

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