

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 36640 of 2020

Arising Out of PS Case No.-130 Year-2020 Thana- KHARIK District- Bhagalpur

Rahul Kumar @ Doma @ Rahul Choudhary, aged about 27 years, Male, Son of Late Akali Choudhary @ Akali Pasi, Resident of Village_Gerabari (Korha) PS Katihar, District_Katihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Vikram Deo Singh and Mr. Pawan Kumar Singh, Advocates
For the State	:	Mr. Md. Arif, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 02-07-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Vikram Deo Singh, learned counsel along with Mr. Pawan Kumar Singh, 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 Kharik PS Case No. 130 of 2020 dated 23.07.2020, instituted under Sections 30(a) and 38(i) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the 'Act').

4. The allegation against the petitioner is that when police on prior information that liquor was being brought in a white colour Indigo car, on the National Highway, when they



intercepted the said car, 104.625 litres of liquor was recovered and the persons in the car ran away and one person was caught, who disclosed his name as Gyanu Ranjan and he took the name of five persons, including the petitioner, who had fled away from the place.

5. Learned counsel for the petitioner submitted that the incident occurred in the middle of the night and, thus, it cannot be said with certainty that the petitioner was also among the persons who had run away and most importantly, no independent witness is there to the seizure made as two police personnel of the raiding party have signed as witnesses on the seizure list. Learned counsel submitted that Gyanu Ranjan belongs to the same village as that of the petitioner and that is why there is false implication as in the past the petitioner had informed the authorities with regard to the illegal activity of Gyanu Ranjan due to which he was nursing a grudge and had named him. Learned counsel submitted that the petitioner has no criminal antecedent. Further, it was submitted that similarly situated co-accused Tuntun Kumar @ Ravish Kumar has been granted anticipatory bail by a co-ordinate Bench by order dated 22.03.2021 in Cr. Misc. No. 38729 of 2020.



6. Learned APP submitted that the name of the petitioner has been taken by the co-accused who was caught and there is huge recovery of liquor.

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 2nd Additional Sessions Judge-cum-Special Judge (Excise) Bhagalpur in Kharik PS Case No. 130 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.)

P. Kumar

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