

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 37717 of 2020

Arising Out of PS. Case No.-137 Year-2020 Thana- SIMRI District- Buxar

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Rahul Ojha, aged about 35 years Male, Son of Brijbhan Ojha, Resident of
Village Nimez, PS- Brahampur, District- Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sheo Jee Mishra, Advocate

For the State : Mr. Chandrasen Prasad Singh, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 20-07-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Sheo Jee Mishra, learned counsel for the petitioner and Mr. Chandrasen Prasad Singh, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioner apprehends arrest in connection with Simri PS Case No. 137 of 2020 dated 13.05.2020, instituted under Sections 188, 269, 270, 271/34 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, though not named in the FIR, is that from the Scorpio vehicle from which 4.5 litres of liquor was recovered, when the arrested persons were in the police station, the driver received a call from the petitioner.

5. Learned counsel for the petitioner submitted that the Scorpio belonged to Sanjay Kumar Tiwari @ Munna Tiwari, Buxar Town MLA and was used for delivering food packages during pandemic and in that connection, the petitioner had rung up the driver of the vehicle to know the position. It was submitted that had the petitioner been involved, he would not have rung up the driver, that too, when he was in the police station after being arrested. Learned counsel submitted that the petitioner has no criminal antecedent and none of the four persons, including the driver, have taken his name in any capacity which would indicate that he was in no way connected with the recovered 4.5 litres of liquor. Thus, learned counsel submitted that the bar of Section 76(2) of the Act would not apply in the present case as no offence against the petitioner is made out under the Act.

6. Learned APP submitted that the petitioner having rung up the driver indicates that he is also involved in such business along with the arrested persons.



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 District and Sessions Judge-cum- Special Judge of Excise, Buxar in Simri PS Case No. 137 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, 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 and give undertaking with regard to good behaviour of the petitioner and (iii) that the petitioner shall co-operate with the Court and police/prosecution. Any violation of the terms and conditions of the bonds or the undertaking or failure to co-operate 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.)

P. Kumar

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