

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.452 of 2021**

Arising Out of PS. Case No.-86 Year-2020 Thana- BISHWAMBHARPUR District-
Gopalganj

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Anshu Singh alias Digvijay Kumar Rai, aged about 19 years, Gender- Male,
son of Atul Kumar Rai, resident of village- Isar Patti, P.S. - Bishwambharpur,
District – Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Indrajeet Bhushan, Advocate
For the State	:	Mr. Aditya Narayan Singh No. 1, APP

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

Date : 12-08-2021

The matter has been heard *via* video conferencing.

2. The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the petitioner on 05.08.2021, which was allowed.

3. Heard Mr. Indrajeet Bhushan, learned counsel for the petitioner and Mr. Aditya Narayan Singh No. 1, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

4. The petitioner apprehends arrest in connection with Bishwambharpur PS Case No. 86 of 2020 dated 15.06.2020, instituted under Sections 30(a) of the Bihar Prohibition and



Excise Act, 2016 (hereinafter referred to as the 'Act').

5. As per the FIR, the police at about 10.00 PM on 15.06.2020, when was conducting patrolling and raids, three motorcycles were seen coming towards them and on one motorcycle, two persons were riding, whereas, on the other two motorcycles only one person was driving the same and on seeing the police vehicle, all the four persons left their motorcycles and started fleeing away out of which two persons were apprehended, whereas, two others managed to escape. Thereafter, in the presence of two independent witnesses, the detained persons disclosed their identity as Om Prakash Yadav and Sheojee Yadav and Sheojee Yadav disclosed that the petitioner was the person, who was sitting behind him on his motorcycle, and the other person, who had fled away was Chand Mian. On search of the motorcycle of co-accused, Om Prakash Yadav, 45 litres of countrymade liquor, from the motorcycle of Sheojee Yadav, on which the petitioner is said to be riding, 34 litres of the said liquor and from the motorcycle driven by co-accused, Chand Mian, 54 litres of the said liquor were recovered. It is further alleged that on enquiry, the detained persons disclosed that they had purchased the liquor from Uttar Pradesh and all four of them were involved in the trade of



liquor.

6. Learned counsel for the petitioner submitted that he was not caught at the spot and only because of the name taken by the arrested co-accused, Sheojee Yadav, he has also been implicated. Learned counsel submitted that just a few days prior to the incident, the petitioner had publicly abused and insulted Sheojee Yadav for not returning Rs.5,000/- which he had taken as friendly loan in March, 2020, but was not returning the same on some pretext or the other and that is why, he has been falsely implicated. Further, it was submitted that the petitioner has no criminal antecedent. Thus, it was contended that as there is nothing to connect the recovered liquor to the petitioner, the bar of Section 76(2) of the Act would not apply in the present case.

7. Learned APP submitted that the person, who was arrested, has stated that it was the petitioner, who was sitting behind him on the motorcycle and there is no reason to disbelieve him.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, having regard to the fact that it is the statement of the arrested co-accused, before the police, being the only material to connect the petitioner to the recovery of liquor and he having no



criminal antecedent, the Court is inclined to grant pre-arrest bail to the petitioner.

9. Accordingly, 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, Gopalganj, in Bishwambharpur PS Case No. 86 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.

10. 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.

11. The petition stands disposed of in the aforementioned terms.

(Ahsanuddin Amanullah, J)

J. Alam/-

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