

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3189 of 2021**

Arising Out of PS. Case No.-191 Year-2020 Thana- GOVERNMENT OFFICIAL COMP.
District- Nawada

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1. Dipak Kumar @ Karu, aged about 20 years, (Male), son of Late Sitaram Prasad, resident of Village- Baseriya, P.S. Sirdalla, District- Nawada.
 2. Subodh Kumar Yadav, aged about 24 years, (Male), son of Rajendra Yadav, resident of Village- Chotha, P.S. Rajauli, District Nawada

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Nasrul Huda Khan, Advocate
For the State	:	Mr. Rana Randhir Singh, APP

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

Date : 02-08-2021

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 26.07.2021, which was allowed.

3. Heard Mr. Nasrul Huda Khan, learned counsel for the petitioner no. 2 and Mr. Rana Randhir Singh, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

4. Learned counsel for the petitioners submitted that he is not pressing the petition on behalf of the petitioner no.1, namely, Dipak Kumar @ Karu. Accordingly, the petition stands disposed off as far as the petitioner no. 1, Dipak Kumar @ Karu,



is concerned and is restricted to petitioner no. 2, Subodh Kumar Yadav.

5. The petitioner no. 2 apprehends arrest in connection with GO Case No. 191 of 2020 dated 09.09.2020, instituted under Section 30(a) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the 'Act').

6. The allegation against the petitioner no.2 is that when the police during course of checking stopped a Splendor motorcycle, two persons sitting on it tried to run away, but the petitioner no. 1 is said to have been caught but later on he also ran away and on search 45.5 litres of countrymade liquor was recovered from the motorcycle. It is contended that the other person, who ran away, was the petitioner no. 2.

7. Learned counsel for the petitioner no.2 submitted that neither the motorcycle nor the liquor recovered belonged to him and further, that he has no criminal antecedent and only on suspicion due to *mala fide* reasons he has been made accused. Thus, it was contended that since there is nothing to connect the petitioner to the seized liquor, the bar of Section 76(2) of the Act would not be attracted.

8. Learned APP submitted that the petitioner was also riding on the motorcycle and ran away on seeing the police and



from the motorcycle, there has been recovery of countrymade liquor.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, as there is a categorical stand on behalf of the petitioner no. 2 that the seized motorcycle does not belong to him and he has no criminal antecedent, the Court is inclined to grant pre-arrest bail to him. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner no. 2, namely, Subodh Kumar Yadav, 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 Additional Sessions Judge-II-cum Special Judge, Nawada, in GO Case No. 191 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 no. 2, (ii) that the petitioner no. 2 and the bailors shall execute bond with regard to good behaviour of the petitioner no. 2, and (iii) that the petitioner no. 2 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 no. 2 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 no. 2, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner no. 2.

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

(Ahsanuddin Amanullah, J)

J. Alam/-

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