

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 6820 of 2021

Arising Out of PS. Case No.-270 Year-2020 Thana- PANDAUL District- Madhubani

Mukesh Kumar Son of Sri Dhruv Narayan Mahto Resident of Shivaji Nagar,
Pandaual Bazar, P.S. - Pandaual, District - Madhubani -847234.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Satyabir Bharti, Advocate

For the Opposite Party/s : Mr. Braj Kishore Prasad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

2 25-05-2021 Heard learned counsel for the petitioner and learned
A.P.P. for the State through video conferencing.

The petitioner has filed the instant application for grant of regular bail in connection with Pandaual Police Station Case No. 270 of 2020 registered under sections 272, 273, 465 and 420 of the Indian Penal Code and sections 30(a) and 35(e) of the Bihar Prohibition and Excise Act, 2016.

As per the prosecution case, on a raid being conducted and on seizure of the petitioner's non-alcoholic drink, Town Police Station Case No. 265 of 2020 was registered on 14.10.2020. Subsequently, the seized articles were sent for chemical examination to the Excise Chemical Examiner, Bihar, Patna and as per the report received, it was found to be fermented liquor having ethyl alcohol content of 0.8% v/v and 0.07% respectively. Accordingly, the instant separate Town



Police Station Case No. 270 of 2020 was registered, as stated above.

It is submitted by learned counsel for the petitioner that the petitioner happens to be the distributor of various food products in the district of Madhubani including the beverages mentioned above which are non-alcoholic drinks. The petitioner has purchased the same lawfully through GST invoices for sale in the district of Madhubani on the basis of the license held by him under the Food Safety Act for sale of the above mentioned beverages. It is submitted that the F.I.R. has been lodged under an incorrect presumption that anything which contains alcohol, howsoever negligible would be punishable under the Act. In support of his contention that the case has been wrongly instituted, learned counsel for the petitioner relies on the judgement dated 5.11.2017 (Annexure-8) of this Court passed in Cr.W.J.C. No. 627 of 2017 (M/s Smart India Marketing Proprietorship Concern and another vs the State of Bihar and others). It is further submitted that besides these two cases i.e Madhubani Town Police Station Case No. 265 of 2020 and the instant case, arising out of the same transaction, the petitioner is not accused in any other case. He is in custody since 9.11.2020 and investigation in the case has concluded.

The application for bail is opposed by learned A.P.P.



for the State.

Having heard learned counsel for the parties, on a query being made by the Court, it was submitted by learned counsel for the petitioner that the appeal/application preferred by the State of Bihar against order contained in Annexure-8 to this application has been dismissed by the Hon'ble Apex Court

In the facts and circumstances of the case together with the investigation in the case having concluded and the petitioner being in custody since 9.11.2020, the Court is inclined to enlarge the petitioner on bail. The petitioner is directed to be enlarged on bail in connection with Pandaul Police Station Case No. 270 of 2020 on furnishing bail bond of Rs.10,000/ (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District and Sessions Judge-II-cum-Special Judge, Excise, Madhubani.

(Partha Sarthy, J)

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