

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2051 of 2021**

Arising Out of PS. Case No.-649 Year-2019 Thana- PATNA GRP CASE District- Patna

Amit Kumar, aged about 28 years, Gender- Male, son of Devendra Singh,
resident of village - Lodipur (Lakhanpur), P.S. - Punpun, District - Patna.
... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shivendra Kumar Sinha, Advocate
For the State : Mr. Md. Arif, APP

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

Date : 10-08-2021

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 04.08.2021, which was allowed.

3. Heard Mr. Shivendra Kumar Sinha, learned counsel for the petitioner and Mr. Md. Arif, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

4. The petitioner apprehends arrest in connection with Rail PS (Patna Jn.) Case No. 649 of 2019 dated 29.11.2019, instituted under Sections 273/34 of the Indian Penal Code and 30(a) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the 'Act').

5. The allegation against the petitioner is that when



the police, on suspicion, caught one Avinash Kumar, from his trolley 6 litres of liquor was recovered who disclosed that the same was being taken for delivering to the petitioner, who was the Senior Supervisor of the Railway Enquiry Office (Call Center). It has further been stated that the petitioner had come to receive the trolley, but upon seeing the police, he had hidden himself.

6. Learned counsel for the petitioner submitted that only on bald and false accusation, he has been made accused. It was submitted that the arrested Avinash Kumar works under him as he is an employee in the said Call Center and because of his negligence towards his duty, he had been warned by the petitioner and to take revenge he has been falsely implicated. It was submitted that the petitioner has no criminal antecedent. Learned counsel submitted that as there is nothing to connect him to the recovered liquor except for the statement, that too before the police, of the arrested co-accused that the liquor was for delivery 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 petitioner has been named by the person, who was caught with the liquor and it has been stated that the liquor was meant to be delivered to the



petitioner.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that the allegation against the petitioner being based only on the statement of the arrested co-accused that the liquor was to be delivered to him, the bar of Section 76(2) of the Act would not apply and further, since the petitioner has no other criminal antecedent, the Court is inclined to allow the prayer of the petitioner for pre-arrest bail.

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 Special Judge, Excise, Patna, in Rail PS (Patna Jn.) Case No. 649 of 2019, 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 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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