

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 5495 of 2021**

Arising Out of PS. Case No.-132 Year-2020 Thana- CHANDAUTI District- Gaya

Monu Yadav, aged about 26 years, Male, Son of Makshudan Yadav, Resident of village- Bataspur, PS- Chandaoti, District- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. S S P Yadav, Advocate

For the State : Mr. Navin Kumar Pandey, APP

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

Date : 24-08-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. S S P Yadav, learned counsel for the petitioner and Mr. Navin Kumar Pandey, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioner apprehends arrest in connection with Chandaoti PS Case No. 132 of 2020 dated 26.07.2020, instituted under Section 30(a) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the ‘Act’).

4. The allegation against the petitioner and his brother is that when the police, on secret information that the petitioner along with co-accused Harang Yadav were bringing *mahua* wine on motorcycle for selling at Bataspur, reached the spot, two



persons were seen coming on motorcycle and on seeing the police they ran away leaving the motorcycle, from which, on search, 20 litres of *mahua* wine in a gallon was recovered and the name of the petitioner and co-accused was disclosed by the *Chowkidar*.

5. Learned counsel for the petitioner took a categorical stand that the motorcycle from which recovery has been made does not belong to him and that the petitioner has no concern with the liquor and also having no other criminal antecedent. It was further submitted that since there is nothing to connect the petitioner either to the seized motorcycle or the liquor, the bar of Section 76(2) of the Act would not apply in the present case.

6. On the aforesaid stand of learned counsel for the petitioner, the Court had asked learned APP to obtain the up-to-date legible photocopy of the entire case diary of the case from the Senior Superintendent of Police, Gaya as also a detailed report with regard to the seized motorcycle.

7. Learned APP, from the case diary and the report, submitted that as per the registration records, the motorcycle is in the name of one Gautam Kumar son of Madan Prasad resident of Surhari PS- Muffasil Manpur, District- Gaya.



8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in view of the fact that the seized motorcycle does not belong to the petitioner and it is only the *Chowkidar* who had identified him as one of the persons who was riding the motorcycle, the Court is persuaded to allow the prayer 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, Gaya in Chandauti PS Case No. 132 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 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.)

P. Kumar

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