

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 7684 of 2021

Arising Out of PS Case No.-34 Year-2020 Thana- BATHNAHA District- Sitamarhi

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Ajay Singh @ Ajay Kumar Singh, aged about 22 years, Male Son of Madan Mohan Singh, Resident of Village- Bhupbhairo, PS- Sitamarhi, District- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Uday Kumar, Advocate

For the State : Mr. Navin Kumar Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 08-07-2021

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 02.07.2021, which was allowed.

3. Heard Mr. Uday Kumar, learned counsel for the petitioner and Mr. Navin Kumar Pandey, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

4. The petitioner apprehends arrest in connection with Bathnaha PS Case No. 34 of 2020 dated 22.02.2020, instituted under Sections 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 police intercepted a tempo and arrested the driver, Chote Rai, 71.4 litres of *nepali saufi* wine was recovered from the tempo and he disclosed that he along with the petitioner was doing this business for the last one month.

6. Learned counsel for the petitioner submitted that he has no connection either with the arrested Chote Rai or the tempo and has been falsely implicated due to local petty politics. Further, learned counsel submitted that there has been no recovery from the house of the petitioner though it has been stated in the FIR that the wine used to be brought from Nepal and taken to the house of the petitioner. Learned counsel submitted that the petitioner has no criminal antecedent. Thus, it was contended that as there is nothing to connect the petitioner to the recovered liquor, the bar of Section 76(2) of the Act would not apply.

7. Learned APP submitted that the arrested driver of the tempo has confessed that he was dealing in liquor along with the petitioner.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, 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 Additional District and Sessions Judge 2nd cum-Special Judge (Excise) Sitamarhi District Sitamarhi in Bathnaha PS Case No. 34 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.

9. 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.

10. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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