

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7751 of 2021

Arising Out of PS. Case No.-397 Year-2020 Thana- BEGUSARAI TOWN District- Begusarai

Karan Kumar. Aged about 24 years (Male) Son of Suresh Poddar @ Suresh Marwari, Resident of Mohalla - Marwari Mohalla, Ward No. 22, P.S. - Nagar (Ratanpur O.P.), District - Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Nasrul Hoda Khan, Advocate
For the State	:	Mr. Ataur Rahman, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 15-07-2021

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 09.07.2021, which was allowed.

3. Heard Mr. Nasrul Hoda Khan, learned counsel for the petitioner and Mr. Ataur Rahman, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

4. The petitioner apprehends arrest in connection with Town PS Case No. 397 of 2020 dated 07.08.2020, instituted under Section 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 informant, who is an Assistant Sub Inspector of Police, was on patrolling duty, reached the place of occurrence, four persons were seen sitting on two motorcycles who started running away leaving the motorcycles and despite chase, they succeeded in fleeing away. It has been alleged that the petitioner along with two other persons had been identified whereas one person could not be identified and upon search, from the cartons kept on the motorcycle, 67.500 litres of liquor was recovered.

6. Learned counsel for the petitioner submitted that in the FIR itself, it has been stated that in the light of the vehicle, the accused were identified but the same is doubtful as who had identified the petitioner has not been disclosed. Further, it was submitted that the FIR itself discloses that the time of occurrence is 4:35 AM but as per the column in the FIR, the information was given in the police station at 8:10 PM though the informant is a police officer. It was submitted that the petitioner has no connection either with the motorcycles or with the liquor and has clean antecedent. Thus, learned counsel submitted that as there is no material to connect the petitioner to the recovered motorcycles or liquor, the bar of Section 76(2) of the Act would not apply with regard to maintainability of the present petition.



7. Learned APP submitted that the police have identified the petitioner as one of the persons who had run away. However, it was not controverted that such identification is said to be in the light of the vehicle and further that though the incident is said to have taken place at 4:35 AM but the FIR has been instituted at 8:10 PM.

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 2nd Additional Sessions Judge cum-Special Judge, Excise Act, Begusarai in Town PS Case No. 397 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 petition stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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