

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 10243 of 2021

Arising Out of PS. Case No.-298 Year-2020 Thana- NANPUR District-Sitamarhi

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Bujun Rai @ Gujun Rai @ Shiv Jee Rai @ Sudhir Kumar, Male, aged about 45 years, Son of Kailash Rai, Resident of Village-Bahurar, Police Station-Nanpur, District-Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Ms. Madhubala Verma, Advocate
For the State : Mr. Vinod Sankar Modi, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 30-07-2021

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 26.07.2021, which was allowed.

3. Heard Ms. Madhubala Verma, learned counsel for the petitioner and Mr. Vinod Sankar Modi, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

4. The petitioner apprehends arrest in connection with Nanpur PS Case No. 298 of 2020 dated 30.07.2020, instituted under Sections 30/30(a)/38 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 information that the petitioner was keeping illicit wine near the hut of co-villager Sikandar Das went to the spot, one Anita Devi was caught and on search illicit wine totalling 13.560 litres was recovered and the arrested lady has stated that the said wine was kept by the petitioner in her house.

6. Learned counsel for the petitioner submitted that the petitioner is a co-villager of co-accused and due to village politics, he has been falsely implicated. It was submitted that the recovered wine not being from the premises owned by the petitioner, there is nothing to connect the same to him, except for a bald statement of co-accused, that too, made to save herself, would not act as a bar under Section 76 (2) of the Act with regard to maintainability of the present petition. It was submitted that the petitioner has no other criminal antecedent. Learned counsel submitted that he has also no connection with co-accused Anita Devi who was caught and her husband Sikandar Das and surprisingly the said Sikandar Das, who is the owner of the house, has not been made accused.

7. Learned APP submitted that the co-accused has stated that the wine recovered from her hut belonged to the petitioner. However, it was not controverted that the recovery



has not been made from the premises owned by 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 A.D.J.-II, Sitamarhi in Nanpur PS Case No. 298 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 of in the aforementioned terms.

(Ahsanuddin Amanullah, J)

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