
(2021) 01 PAT CK 0270

In the Patna High Court

Case No : Criminal Miscellaneous No. 30714 Of 2020

Kamlesh Yadav @ Kamlesh Rai @ Kamlesh Kumar Yadav

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 30-01-2021

Acts Referred:

Indian Penal Code, 1860 — Section 34, 272, 273

Bihar Prohibition And Excise Act, 2016 — Section 30(a), 76(2)

Code Of Criminal Procedure, 1973 — Section 438(2)

Citation : (2021) 01 PAT CK 0270

Hon'ble Judges : Ahsanuddin Amanullah, J

Bench : Single Bench

Advocate : Jitendra Narayan, Kumar Virendra Narayan

Final Decision : Disposed Of

Judgement

1. Heard Mr. Jitendra Narayan, learned counsel for the petitioner and Mr. Kumar Virendra Narayan, learned Additional Public Prosecutor

(hereinafter referred to as the "APP") for the State.

2. The petitioner apprehends arrest in connection with Janta Bazar PS Case No. 11 of 2020 dated 29.01.2020, instituted under Sections 272/273/34 of the Indian Penal Code and 30(a) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the "Act").

3. The allegation against the petitioner is that on secret information by the police that he was carrying liquor in a car, when they stopped the Alto Car, one person ran away and from the car 148.680 litres English wine was recovered.

4. Learned counsel for the petitioner submitted that due to local rivalry as his father is a prospective candidate in the upcoming local elections, a wrong information was given about the petitioner driving the car. It was submitted that

the petitioner has neither been caught nor identified as the person who ran away from the Maruti Alto car which was seized and from which recovery is said to have been made. Learned counsel submitted that he has neither any connection with the car nor the recovered liquor and has no criminal antecedent. It was submitted that the bar of Section 76(2) of the Act would not apply as there is nothing to connect the petitioner to the recovered liquor.

5. Learned APP submitted that the police had information that it was the petitioner who was driving the car. However, it was not controverted that the petitioner has been caught nor anyone has identified him as the person who ran away from the car.

6. 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) each with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-II-cum-Special Judge, Excise

Act, Saran at Chapra in Janta Bazar PS Case No. 11 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.

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