

In The Court of Additional Sessions Judge 2nd cum- special Judge Excise,

Rohtas at Sasaram

Kargahar P.S.-207/2020

Reg. No. 748/2020

In the matter of

Bhola Ram,

.....Petitioner/accused

vrs.

State of Bihar.

P.S. Kargahar, FIR NO.

207/2020, u/s 30 (a)

Bihar Prohibition & Excise Act.

Ld. Counsel for accused: Sri Munna Kant Singh, Adv.

Ld. APP for the State: Sri Rameswar Singh, Spl. PP.

ORDER

31.03.2021 By this order we are going to dispose the bail petition filed on behalf of above named accused u/s 439 Cr. P.C.

Ld. Counsel for the petitioner submitted that the petitioner has falsely implicated in this case and he has committed no offence and police of Kargahar P.S. has implicated him on the false information of the informant. The accused/petitioner is in judicial custody since 10.08.2020.

Ld. Spl. pp strongly opposed the bail application and submitted that the allegation against the petitioner is serious in nature.

In brief the prosecution story is that on dated 08.08.2020 at about 10 p.m. during the course of patrolling duty ASI Gautam Kumar has received a secret information that a truck coming from Sasaram is loading with heavy quantity of illicit alcohol. Thereafter at about 2.45 a.m. in the intervening night of 8/9 August, a truck bearing No. HR 39 c 6094 was intercepted and driver of said truck was overpowered. He disclosed his name as Bhola Ram and from the search of the truck 310 cartons of illicit alcohol was recovered each carton contains 48 bottles, each bottle contains 180 ml, and besides this 300 pieces of Royal Secret alcohol of 180 ml each, total 2732.40 liters of illicit alcohol was recovered from the said truck. Thereafter, the seizure memo of the truck as well as recovered alcohol was duly prepared and after the registration of the FIR, accused was arrested.

During the course of interrogation accused Bhola Ram confessed that he has to supply these illicit alcohols to Vijay Kumar Singh. He also stated that the person travelling with him namely, Hare Ram Singh has run away from there after seeing the police party.

Argument heard from both sides and case diary perused. The members of the raiding party have duly supported the prosecution case. The sample of the recovered alcohol was sent for the chemical examination and it was found ethyl alcohol contains 31.6%. From the perusal of the case diary as well as the FIR it is apparently clear that this petitioner was the driver of the truck from which the illicit

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31.03.2021

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alcohol in huge quantity was recovered and no other person was travelling alongwith him. As noted in Gunwantlal Vs. The State of M.P. (AIR 1972 SC 1756) possession can not be physical possession but can be constructive, having power and control over the article in case in question, while the person whom physical possession is given holds in subject to that power or control. Besides the illicit alcohol the other belongings of the accused was also recovered from the truck and the false implication of the accused/petitioner is totally ruled out. The accused is resident of Chandigarh, Punjab. Hence, there is the chance of absconding of the accused is also cannot be ruled out. The allegation against the petitioner is very serious in nature. Hence, this Court is not inclined to grant the bail to this accused/petitioner. Accordingly, this bail petition is hereby dismissed.

(Dictated & Corrected)

ADJ-II Cum Spl. Judge (Excise)

Rohtas at Sasaram.

31.03.2021