

Devendra Yadav Alias Devendra Kumar Vs. The State of Jharkhand

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Court : Jharkhand

Decided On : Nov-13-2017

Appellant : Devendra Yadav Alias Devendra Kumar

Respondent : The State of Jharkhand

Judgement :

IN THE HIGH COURT OF JHARKHAND, RANCHI A.B.A. No. 6511 of 2017
Devendra Yadav @ Devendra Kumar Petitioner(s) Versus The State of
Jharkhand. . Opp. Party(s) _____ CORAM : HONBLE MR. JUSTICE ANANT
BIJAY SINGH _____ For the Petitioner(s) : Mr. K. P. Deo, Advocate For the State
: Mr. Ashok Kr. APP ----- Order No.04, Dated 13.11.2017 .

1. The instant application for anticipatory bail filed on behalf of the petitioner, Devendra Yadav @ Devendra Kumar has been pressed.
2. Heard learned counsel appearing for the petitioner and learned counsel for the State.
3. The petitioner is apprehending his arrest in connection with Mohanpur P.S. Case No.32 of 2017 corresponding to G.R. No.268 of 2017, lodged under Sections 272, 273, 379/411 of the Indian Penal Code and Under Section 47a of the Excise Act, pending in the court of learned SDJM, Deoghar.
4. The instant case has been lodged on the basis of the written re- port of the informant, namely, Shailesh Kumar, Circle Officer, Deoghar (Town), dated

14.02.2017, submitted before the Officer-in-Charge, Mohanpur Police Station, alleging therein that the S.I., P.S.:- Bausi, Distt :- Banka, came to Mohanpur in connection with Bounsi (Bihar) P.S. Case No.20 of 2017 (dated 03.02.2017) lodged under Sections 292/273/414 IPC and 120B and 30(a) of the Bihar Excise Amendment and Prohibition Act and informed that one C.G.P. Laboratory situated at Khijuria P.S.:- Mohanpur, where illegal wine was being manufactured and inspected the said premises on 14.02.2017. The SI, Bounsi P.S. along with local police officers and Inspector of Excise, Kundan Kumar Kaushal inspected the premises of the petitioner wherein they found that one tanker bearing Registration No.NL01 775 parked in the premises and spirit was taken out in the Drum. One person was apprehended who disclosed his name Uttam Kumar that the aforesaid tanker with consignment was going to Mizoram and as such, he could not satisfy the officers and the tanker contained 25,000 litre of spirit and hence, this case has been lodged.

5. It is relevant and important to mention herein that this is second application. The earlier application being ABA No.2435 of 2017 vide order dated 09.10.2017 was rejected after calling criminal antecedent of the petitioner.

6. It was found that the petitioner has no criminal antecedent. Hence, the second anticipatory bail application has been filed on the fresh grounds which are as follows :-

- a. It has been submitted that the petitioner has no criminal antecedent and has been made accused as petitioner is successful businessman, belongs to a very respectable and reputed family. Petitioner after doing his post graduation and Management and clearing Bihar Eligibility Test for Lecturership started his business on the basis of valid license issued by department of Excise and Drug, Government of Jharkhand, since 2004.
- b. It has further been submitted that the petitioner has been made accused as petitioner is proprietor of C.D.P. Laboratories, Khijuria, Deoghar, and the drug manufacturing unit is established over the ancestral property of the petitioner, where several other manufacturer as well as District Godown of Jharkhand Beverage situated, and the same land is on Deoghar- Sultanganj Main road.
- c. It has been submitted that the said land is surrounded by a common boundary wall for all the units and it is wrong to allege that the Tanker carrying Spirit was standing for petitioners firm.
- d. It has been

submitted that seized tanker carrying spirit was standing inside the common boundary wall of the units and after this occurrence, petitioner being innocent person realized the reason for his false implication and thus surrounded his unit C.D.P. Laboratories by a boundary wall inside the aforesaid common boundary wall. e. It has been submitted that the family background of the petitioner is that petitioners father is an agriculturist having ancestral agricultural land including this land on which different units are running on tenancy. The uncle of the petitioner was a public prosecutor and a practicing advocate at Deoghar Civil Court. f. It has been submitted that the petitioner has always purchased spirit for his laboratory as per allotment issued by Excise department which will be apparent from perusal of three registers, i.e., RG-1 (Register of vessel or receptacles), RG-2 (Register of transaction in spirit store) and RG-3 (Register of operation in bonded/non bonded manufacturing) and from perusal of the same it appears that last quantity of spirit found in the premises of C.D.P. Laboratories is on 06/02/2017. g. It has been submitted that 72000 bulk Liters of spirit has been purchased by the C.D.P. laboratory under proper allotment issued by Excise Department vide Memo no. 2982/ Ranchi, dated 14/09/2017 and is valid till 31/03/2017 and on the basis of said permit advice for Import of rectified spirit was granted by Superintendent of Excise, Deoghar vide Indent No. 2/2016-17, dated 16/09/2016 for 24,000 listers, & Indent No. 3/2016-17, dated 09/11/2016 for 24,000 liters, & Indent No. 4/2016-17, dated 22/12/2016 for 24,000 liters, each for M/S Pioneer Industries Limited, Ranipur, Pathankot, Punjab vide Advice dated 23/12/2016 and 8765 bulk liters are still lying in the premises of C.D.P. laboratory in 110 vessels properly gauged by the Excise Department, which is regularly being checked by Bond Officer as well as Superintended of Excise and the same will be evident from register of transaction duly certified by officials of Excise Department. h. It has been submitted that on the basis of said indent the spirit was transported through different distillery pass and thus 72,000 liters spirit was purchased and supplied on different date on the basis of such indent each of 24,000 liters filled in 110 vessels and such purchase is made as per requirement within specified period for 20 different drugs for which Director-in-Chief (Drugs) -Cum- Chief Licensing Authority, Jharkhand, Ranchi has issued License to the petitioner vide License No. JH/NON-BIO/10/2004 and on the basis of said license petitioner manufactured medicine

nineteen times from the stock consuming 63235 liters of spirit and thus, 8765 liters remained in different vessels in premises. i. It has been submitted that the petitioner has not supplied and medicine to any individual or shopkeeper, rather all these medicines have been supplied to different authorized carry and forward agent of the petitioner at different place in Uttar Pradesh and West Bengal as these medicines are allopathic medicines. j. It has been submitted that place of occurrence found by Investigating Officer also suggest that the seized tanker carrying spirit was found in premises of C.D.P. Laboratories and Dew Packaged Drinking Water and Investigating Officer has no reason to allege that spirit was brought to supply in the unit of the petitioner, i.e., C.D.P. Laboratories. k. It has been submitted that during Investigation, the Investigating Officer has tried his best to connect the petitioner or his unit with Driver or the owner of alleged seized Tanker and for that purpose the Investigating Officer has examined the call detail of the petitioner (Mobile No. 9431158177), Chemist of Firm Sri Nikunj Kumar Bal (Smt. Pratima Bal) (Mobile No. 9431137927), and mobile no. of Truck/tanker Jaychand Sahani (7463860024) and Driver of Truck No. 709 Shiv Chandra Ram (91199529347) for last three months prior to 15/02/2017 but no connection or any conversation was found to establish any connection of the petitioner or his firm with the driver of alleged seized tanker. m. It has been submitted that C.D.P. Laboratory was closed from 08/02/2017, having stock of 8765 liters of spirit as the chemist was on leave and the F.I.R. was lodged on the basis of seizure made on 13/02/2017 when the said C.D.P. Laboratory was closed, which continuous till dated and may be verified today also. n. It has been submitted that from perusal of written report itself it is apparent that spirit was unloaded in plastic jar, which also falsifies the allegation against the petitioner because if the tanker was carrying spirit for C.D.P. Laboratory, then unloading of the same would have been done in proper way in any of 110 vessels, situated in unit, then in no case spirit could have been taken in plastic jars. o. It has been submitted that when the unit of the petitioner was closed and several unit of different material was situated in common boundary wall then entry of any truck is not within the control of the petitioner and for that petitioner cannot be made an accused only because spirit is consumed in unit of C.D.P. Laboratory belonging to the petitioner. p. It has been submitted that the Investigating agency has not found any material inside the premises

connecting the petitioner with illegal manufacturing of liquor, neither any bottle, nor any label, cork, sealing or packing machine are found in the premises of the petitioner and as such an educated and innocent businessman of reputed family cannot be made accused on the basis of such flimsy allegation. q. It has been submitted that the petitioner has no criminal antecedent and is ready to abide all conditions as imposed by this Honble Court.

7. Learned counsel appearing for the State while opposing the prayer for bail, submits that no fresh ground has been made in this application.

8. Having heard counsel for the parties and having gone through the records, I am of the view that these grounds were not pleaded in earlier bail application.

9. Considering the facts and circumstances of the case, the petitioner, namely, Devendra Yadav @ Devendra Kumar, is directed to surrender in the court below latest by 18 th December, 2017, and in the event of his arrest or surrender, the court below shall enlarge the petitioner on bail, on furnishing bail bond of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of S.D.J.M., Deoghar, in connection with Mohanpur P.S. Case No.32 of 2017 corresponding to G.R. No.268 of 2017, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. and subject to the condition that the petitioner is directed to deposit Rs.2,51,000/- (Two Lakh Fifty one Thousand) in the Welfare Fund with the Secretary/ President, Jharkhand High Court Advocates Association, Ranchi and produce the receipt of the aforesaid deposition in the court below at the time of surrender.

10. Let a copy of this order be communicated to the court below and the President/Secretary, Jharkhand High Court Advocates Association, Ranchi, at once. (Anant Bijay Singh, J .) Sandeep/

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