

ITEM NO.19 Court 3 (Video Conferencing) SECTION II-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s). 1271/2020

(Arising out of impugned final judgment and order dated 19-06-2019 in CRLM No. 37341/2019 passed by the High Court Of Judicature At Patna)

MD. SHABBIR @ MALLU KHAN Petitioner(s)

VERSUS

THE STATE OF BIHAR Respondent(s)
(FOR ADMISSION and I.R. and IA No. 2886/2020 - EXEMPTION FROM FILING O.T.)

Date : 10-12-2021 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE A.M. KHANWILKAR
 HON'BLE MR. JUSTICE C.T. RAVIKUMAR

For Petitioner(s) Mr. Subhro Sanyal, AOR

For Respondent(s) Mr. Ranjit Kumar, Sr. Adv
 Mr. Samir Ali Khan, AOR

UPON hearing the counsel the Court made the following

O R D E R

Heard learned counsel for the parties.

The argument of the petitioner based on the observation made in paragraph 149 of the judgment in Ram Vinay Yadav vs. State of Bihar reported in 2019 (2) PLJR 1089, would have come to the aid of the petitioner, if he was in a position to demonstrate that no offence under the Bihar Excise and Prohibition Act, 2016 (for short, "2016 Act") has been made out in the FIR at all.

From the FIR as registered against the petitioner, it

is noticed that the petitioner has been named as an accused only in respect of offence under the 2016 Act. It is, therefore, open to the petitioner to approach the concerned court and ask for regular bail, if so advised.

For that limited purpose, we direct that no coercive action be taken against the petitioner for a period of two weeks from today to enable him to appear before the concerned court and apply for regular bail. That bail application be considered preferably on the same day provided the petitioner ensures that 48 hours advance notice before moving such application is given to the local public prosecutor who is expected to oppose the prayer for bail.

Besides this, nothing more is required to be said.

The special leave petition is disposed of accordingly.

It is made clear that all contentions available to the parties are left open and nothing in this order be treated as any observation on the merits of the controversy.

Pending applications, if any, stand disposed of.

(DEEPAK SINGH)
COURT MASTER (SH)

(VIDYA NEGI)
COURT MASTER (NSH)