

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35927 of 2016

Arising Out of PS.Case No. -44 Year- 2016 Thana -MATIHANI District- BEGUSARAI

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1. Rajiv Kumar @ Rajeev Kumar S/o Ram Narayan Singh R/o- vill.-
Ramdiri - Nakti tola- Chaudhary Patti, P.S- Matihani Dist.- Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

2 27-09-2016 Heard learned counsel for the petitioner and Mr. M.

Dayal APP for the State.

On secret information that the petitioner was involved in trade of liquor, it is alleged, that the house of the petitioner was searched and 7.33 litres of foreign liquor was found staked in a gunny bag kept near the house. Seeing the police, it is alleged, that the petitioner made his escape good.

Contention of the petitioner is that on 31.3.2016, the State Government banned the trade consumption etc. of the intoxicants. The said notification did not deal with the India made foreign liquor. On 05.04.2016 another notification was issued which banned trade and consumption of the India made foreign liquor. However, the possession thereof which became illegal

w.e.f. 05.04.2016 was not prohibited. In this context, it is submitted that although the allegation is that he was involved in trade of the liquor but such meager quantity of liquor was allegedly found near the house of the petitioner which cannot be said to be for the purpose of trade and may be a case of simple possession thereof.

In this connection, he has relied on an order passed by this court wherein considering the fasciculus of the provisions held that possession of India made foreign liquor immediately after the notification dated 05.04.2016 did not become illegal. It is also submitted that this is the first offence of the petitioner. Indisputably, he was not found in conscious possession of the gunny bag which might have been kept in the house by someone inimical.

Considering the aforesaid as also the fact that it is first offence of the petitioner and search of the house was made immediately after the notification dated 05.04.2016, I am persuaded to extend him the privilege of anticipatory bail. Let the petitioner, named above, in the event of his arrest/surrender before the learned Court below within a period of four weeks from today, be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the

satisfaction of the learned Judicial Magistrate 1st Class, Begusarai, in connection with Matihani P.S. case no. 44 of 2016, subject to the condition as laid down under Section 438 (2) of the Cr.P.C. with further following conditions:-

- (i) One of the bailors shall be the own/close family member of the petitioner.
- (ii) As soon as the charges are framed the petitioner shall appear in person before the trial Court on the date(s) fixed at the trial. In case of default in such appearance on two consecutive dates, the trial Court shall have liberty to cancel the bail bonds of the petitioner and secure his arrest in accordance with law.

(Kishore Kumar Mandal, J)

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