

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.20411 of 2017

Arising Out of PS.Case No. -483 Year- 2016 Thana -PATORI District- SAMASTIPUR

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Musafir Rai , S/o - Late Daroga Rai , R/v - Dumari, P.S.- Patori (Mohanpur OP), District - Samastipur.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar

For the Opposite Party/s : Sri Jagdhar Prasad

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL ORDER

3 13-07-2017 Heard Sri Ajay Kumar, learned counsel for the petitioner and learned Additional Public Prosecutor.

The sole petitioner, apprehending his arrest in Patori (Mohanpur O.P.) P.S. Case No. 483 of 2016 registered for the offence under Section 30/ 38 of the Bihar Excise Amendment Act, 2016, has prayed for grant of bail in the event of his arrest or surrender.

It was submitted by learned counsel for the petitioner that F.I.R. was lodged on the self statement of the Officer- in-charge of the Police out post. He submits that even the informant



who claims to be Police Officer appears to be unaware about the Act applicable in the case. According to learned counsel for the petitioner in the case alleged date of occurrence was 07.12.2016 when Bihar Prohibition and Excise Act, 2016 was already implemented, however Police Officer has mentioned the provision as BIHAR EXCISE AMENDMENT ACT 2 OCT 2016. He submits that about two days prior to lodging of the present F.I.R. the petitioner's son namely Mukesh Rai was arrested by the Police in intoxicant condition and in relation to investigation of the said case i.e. Patori P.S. Case No. 481 of 2016 Police conducted a raid and from the room of his son namely Mukesh Rai huge quantity of Indian make foreign liquor was recovered . According learned counsel for the petitioner room from where recovery was affected was not in physical possession of the petitioner , rather it was being used and possessed by his son who was already in jail in earlier case. According to learned counsel for the petitioner it is completely false implication of the petitioner .

Considering the fact that son of the petitioner was arrested and in investigation of the said case raid was conducted in the room of the son of the petitioner and recovery was effected, it appears that petitioner has incorrectly been implicated



in the present case .

Accordingly in the event of arrest or surrender within a period of six weeks from today, let the petitioner Musafir Rai be enlarged 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 learned Sub Divisional Judicial Magistrate, Samastipur / concerned court in connection with Patori P.S. Case No. 483 of 2016 subject to the conditions as contemplated under section 438(2) of the Code of Criminal Procedure 1973.

(Rakesh Kumar, J)

Praful/-

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