

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.5297 of 2017

Arising Out of PS.Case No. -276 Year- 2016 Thana -SAKRA District- MUZAFFARPUR

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Indra Mohan Jha, S/o Late Satyadeo Jha, Resident of Village-
Dharmagatpur, P.S.-Sakra, Distt. Muzaffarpur

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mahendra Thakur, Advocate
Mr. Vijay Kumar, Advocate

For the Opposite Party/s : Mr. Pranav Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

2 15-02-2017 Heard the parties.

The petitioner has come before this Court for grant of anticipatory bail in connection with Sakra P. S. Case no. 276 of 2016 registered for the offence under Sections 272 and 273 of the Indian Penal Code and Section 30(A) of the Bihar Prohibition and Excise Act, 2016 with respect to the occurrence dated 11.10.2016.

It has been submitted on behalf of the petitioner that in this case the occurrence took place on 11.10.2016 but the F.I.R. has been sent to the Magistrate on 17.10.2016. However, it has been submitted that seizure has not been made from the house of the petitioner rather it has been made from a bush behind the house of the petitioner and petitioner has no criminal antecedent. Seizure list witnesses have filed an affidavit in support of the fact



that nothing was recovered in their presence and their signatures were taken on a blank paper.

Heard learned A.P.P. also.

Having heard both sides, so far Bihar Prohibition and Excise Act, 2016 is concerned, that has been promulgated on 2.11.2016 and this case is dated 11.10.2016. So far as submission of the F.I.R. to the Magistrate is concerned, that has been sent at the time of trial and all other submissions advanced by the learned counsel for the petitioner that seizure was not made from the house of the petitioner rather from the bush behind the house of the petitioner and seizure list witnesses have filed an affidavit in support of the fact that nothing was recovered in their presence and their signatures were taken on a blank paper, this Court has no jurisdiction to look into an application under Section 438 of the Code of Criminal Procedure which is clearly barred under Section 76 (2) of the Bihar Prohibition and Excise Act and, as such, the petitioner shall surrender and make prayer for regular bail and raise all the above submissions before the court concerned.

This application is, accordingly, dismissed.

(Vinod Kumar Sinha, J)

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