

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.54643 of 2016

Arising Out of PS.Case No. -325 Year- 2016 Thana -GHORASAHAN District-
EASTCHAMPARAN(MOTIHARI)

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1. Mahendra Prasad, Son of Ramekbal Prasad, resident of village -
Sunderpur, P.S. Jharokher, District - East Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. Union of India through Inspector General, S.S.B., Frontier Head Quarter,
Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abhishek Kumar

For the Opposite Party/s : Mr. Sri Jai Narain Thakur

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

2 11-01-2017 Heard learned counsel for the petitioner as well as

learned Additional Public Prosecutor for the State.

Petitioner apprehends his arrest in connection with

Ghorasahan Police Station Case No. 325 of 2016 registered for the

offences punishable under Sections 272, 273 of the Indian Penal

Code and 47 (a) of the Bihar Excise Amendment Act 1916.

The son of the petitioner was caught with liquor and

the motorcycle. The seized motorcycle stood in the name of

petitioner and on the basis of aforesaid fact, petitioner has been

made accused in this case.

Although learned Additional Public Prosecutor



appearing for the State submits that Section 76(2) of Bihar Excise Amendment Act 2016 prohibits to entertain a petition filed under section 438 of the Cr. P.C and, therefore, this petition is hit by the above stated provision but I am not at all convinced with the aforesaid submission because the present occurrence took place on 19.08.2016 whereas Bihar Excise Amendment Act 2016 came into force from 02.10.2016 and Section 76(2) of Bihar Excise Amendment Act 2016 does not have retrospective effect.

Considering the aforesaid facts and circumstances as well as submissions of the parties, this anticipatory bail petition is allowed and it is ordered that petitioner, in the event of his arrest/surrender within four weeks from the date of receipt of this order to the court concerned, shall 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 Sub-Divisional Judicial Magistrate, Sadar at Motihari in Ghorasahan Police Station Case no. 325 of 2016, subject to condition as laid down under Section 438(2) of the Cr.P.C.

(Hemant Kumar Srivastava, J)

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