

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.19757 of 2017

Arising Out of PS.Case No. -15 Year- 2017 Thana -ARER District- MADHUBANI

=====

Suraj Paswan , Son of Late Badri Paswan , Resident of Village - Bijalpura,
P.S. - Arer, District - Madhubani.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Subhash Kumar Jha

For the Opposite Party/s : Sri Anand Kishore Choudhary

=====

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL ORDER

4 13-07-2017 Heard Sri Subhash Kumar Jha, learned counsel for the
petitioner . None appeared on behalf of the State.

The sole petitioner, apprehending his arrest in Arer P.S.
Case No. 15 of 2017 , corresponding to G.R. No. 105 of 2017
registered for the offence under Section 272, 273 of the Indian
Penal Code and Section 30(A) of the Bihar Excise (Amendment)
Act, 2016 has prayed for grant of bail in the event of arrest or
surrender.

Learned counsel for the petitioner at the very outset
submits that the Police Officer, who has registered the F.I.R.



appears to be unaware of the particular facts. He submits that in the case date of occurrence has been alleged as 05.02.2017 when Bihar Prohibition and Excise Act , 2016 was already implemented however , in the F.I.R. Police has registered the case under Section 30(a) of the Bihar Excise (Amendment) Act, 2016. He further submits that the informant is the Officer –in- charge of the Police Station and in such casual manner F.I.R. was lodged. He submits that F.I.R. was lodged by the Officer- in- charge himself on a secret informant regarding keeping of Indian make foreign liquor and thereafter, in complete illegal manner in the night at about 11.45 P.M. a search was conducted in the house of the petitioner. He further submits that even the provisions contained in Chapter VIII of the Bihar Prohibition And Excise Act , 2016 i.e. Section 73 and 74 of the Bihar Prohibition and Excise Act, 2016 appears to be completely unreasonable, unfair and arbitrary which empowers even a Sub Inspector of Police to conduct raid at any time, place etc. without search warrant or without arrest warrant detain/ arrest anyone. He submits that even though search was conducted in the house of the petitioner at an odd time in the night nothing was recovered from his house but he was made accused on the plea that from the backside of the house Indian make foreign liquor was recovered.



In view of the facts and circumstances particularly the fact that nothing was recovered from the premises of the petitioner, in the event of arrest or surrender within a period of six weeks from today, let the petitioner Suraj Paswan 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 Shree Ajay Kumar II, Judicial Magistrate Ist Class, Benipatti , District -Madhubani / concerned court in connection with Arer P.S. Case No. 15 of 2017 corresponding to G.R. No. 105 of 2017 subject to the conditions as contemplated under section 438(2) of the Code of Criminal Procedure 1973.

(Rakesh Kumar, J)

Praful/-

U		T	
---	--	---	--

