

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.54660 of 2016

Arising Out of PS.Case No. -64 Year- 2016 Thana -KORMA District- SEKHPURA

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Pintu @ Kumar Gaurav Son of Anil Singh Resident of Village- Abgil,
Police Station- Korma, District- Sheikhpura.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Nilendu Kumar Choudhary

For the Opposite Party/s : Mr. Bharat Lal

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL ORDER

3 02-03-2017 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

The petitioner is apprehending his arrest in connection
with Korma P.S. Case No. 64 of 2016 for the offences instituted
under Sections 272, 273/34 of the Indian Penal Code and Sections
30, 36, and 41 of the Bihar Excise Act, 2016.

It is alleged that huge quantity of country made liquor
along with mobile phone having two sim cards are said to have
been recovered from the possession of the accused persons.

It has been submitted on behalf of the petitioner that the
petitioner has got no criminal antecedent. There is no allegation
of tampering of witnesses alleged against the petitioner. The
petitioner has not been apprehended on the spot. Since no offence
under the Excise Act is attracted against the petitioner, hence the
present application for anticipatory bail is maintainable. The
petitioner has relied upon a Judgment *reported in 2016(4)*



P.L.J.R. 1058, where it has been held by the Division Bench of this Court that an application under Section 438 of the Cr.P.C. is maintainable under SC/ST Act, if prima facie no case is made out.

On behalf of the State, it has been submitted that the present application is not maintainable under Section 438 of the Cr.P.C. in light of Section 76(2) of the Amended Excise Act. It is further submitted that the referred judgment is not applicable in the present case, as the same is in connection with SC/ST Act and not in reference to Amended Excise Act.

Considering the aforesaid facts and circumstances, I am not inclined to extend the privilege of anticipatory bail to the petitioner. Prayer for anticipatory bail of petitioner is rejected in connection with Korma P.S. Case No. 64 of 2016, pending in the court of Sri Jigar Shah, Judicial Magistrate, 1st Class, Sheikhpura.

Anyhow, if the petitioner surrenders in the court below within a period of six weeks from today, the same shall be considered on its own merit without being prejudiced by this order.

(Sudhir Singh, J)

Amit/-

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