

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.21624 of 2017

Arising Out of PS. Case No.-279 Year-2016 Thana- BIDUPUR District- Vaishali

Sanjeev Paswan son of Shivdeo Bhagat, Resident of village Daudnagar, P.S.
Bidupur, District Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mukesh Kumar
For the Opposite Party/s : Dr.Mrityunjaya Kr.Gautam

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

4 25-08-2017 Heard learned counsel for the petitioner and the State.

It is contended on behalf of the petitioner that a new Act having been published in the Bihar Gazette Extra-ordinary No. 805 on 2nd October, 2016. The first information report which has been lodged on 1.10.2016 would be deemed to have been lodged under the old provision of law and as such provision of Section 76(2) of the Bihar Prohibition and Excise Act, 2016 taking away the power under Section 438 of the Criminal Procedure Code, 1972 would not be applicable in the present case as it would have a perspective application.

Learned counsel for the State is also not in position to controvert the aforesaid submission made on behalf of the petitioner.

Accordingly, this application is required to be heard and



disposed of on merit.

The petitioner apprehends his arrest in a case registered for offences punishable under Section 47(A) of the Bihar Prohibition and Excise Act, 2016.

It is contended on behalf of the petitioner that though the seizure list discloses that 70 litre of country-made liquor was recovered from hut of the petitioner, but in the first information report it is not stated anywhere that the said recovery is from the hut of the petitioner or any accused persons who were apprehended took the name of the petitioner in that regard.

It is startling as to why in the seizure list it is written that the hut belongs to the petitioner though there is no such statement made in the first information report.

Petitioner submits that he is having clean antecedent.

Having regard to the facts and circumstances of the case, let the above named petitioner be released on bail in the event of arrest/surrender before the court below within a period of six weeks from today in Bidupur P.S. Case No. 279/2016, on furnishing bail bond of Rs.10,000 (Ten Thousand Rupees) with two sureties of the like amount each to the satisfaction of the Addl. Sessions Judge II – cum – Special Judge, Excise Act, Vaishali at Hajipur subject to the conditions as laid down



under sub-section(2) of Section 438 of the Code of Criminal
Procedure.

(Dr. Ravi Ranjan, J)

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