

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.27666 of 2017

Arising Out of PS.Case No. -173 Year- 2016 Thana -MADHUBAN District-
EASTCHAMPARAN(MOTIHARI)

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Tunna Singh @ Rajesh Ranjan Ravi S/o Hari Narayan Singh @ Hari Singh
Resident of Village Khodadpur, P.S. - Madhuban, District - East
Champaran

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. N.K. Agrawal, Sr. Advocate
Mr. Jyoti Ranjan Jha

For the State : Mr. Ajay Kumar Jha, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

2 01-07-2017 Heard learned Senior Counsel for the petitioner and learned
Additional Public Prosecutor for the State.

The petitioner apprehends his arrest in connection with a case registered for the offences punishable under Sections 47/49/50(D)/51/52/54/57 of Bihar Excise Amendment Act, 2016 and 272, 273 of the Indian Penal Code.

Learned Senior Counsel for the petitioner submits that the co-accused Gagandeo Paswan has been arrested from the place of occurrence itself and from the godown, certain bottles of wine and spirit were also recovered. Learned Senior Counsel for the petitioner further submits that the petitioner's name does not figure in the First Information Report, but subsequently, in the statement made by the person so arrested the name of the petitioner has been figured.



It is further submitted that the petitioner has leased out the said godown to one Gagandeo Paswan and it was from his conscious possession that such recovery was made. The petitioner is no way connected with the alleged recoveries.

Learned counsel for the State submits that in view of the bar under Section 76(2) of the Bihar Prohibition and Excise Act, 2016, the provision under Section 438 Cr. P.C. would not be applicable. However, this Court in other related matters has already held that the statement of the co-accused before the Police is no evidence and there being no accusation by the prosecution relating to the commission of the offence by the petitioner and his name having subsequently surfaced, the said bar under Section 76 would not apply.

Considering the nature of allegations made and the facts and circumstances of the present case, let the petitioner abovenamed, in the event of his arrest / surrender within a period of four weeks from the date of receipt/production of a copy of this order, be enlarged 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 learned Additional Chief Judicial Magistrate, IVth, East Champaran, Motihari, in connection with Madhuban P.S. Case No. 173 of 2016, subject to the conditions as laid



down under Section 438(2) of the Cr. P.C.

(Anjana Mishra, J)

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