

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.16425 of 2017

Arising Out of PS.Case No. -31 Year- 2017 Thana -OBRA District- AURANGABAD

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Sajan Kumar Son of Sanjay Kumar Singh, Resident of Village- Deokali,
P.S.- Obra, District- Aurangabad.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance:

For the Petitioner/s : Mr. Sanjay Kumar, Advocate.

For the Opposite Party/s : Mr. Akhileshwar Dayal, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 15-06-2017 Heard Sri Sanjay Kumar, learned advocate for the

petitioner, and Sri Akhileshwar Dayal, learned A.P.P. for the

State.

The petitioner in the present case is seeking
anticipatory bail in Obra P.S. Case No. 31/2017 registered under
Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

Learned counsel for the petitioner submits that in fact
it is a case of mere levelling of section under the provisions of the
Bihar Prohibition and Excise Act, 2016 as it will appear from the
First Information Report that the seizure has not been made from
the possession of this petitioner or from the motorcycle which is
said to be lying near the place from where the seizure has been
made. He would further submit that in case of this nature where
there is mere levelling of section, this Court may exercise its



discretion to grant anticipatory bail to the petitioner, particularly when the petitioner has got no criminal antecedent.

The learned A.P.P. opposed the prayer for anticipatory and submitted that in view of Section 76(2) of the Bihar Prohibition and Excise Act, 2016, an Anticipatory Bail application is not maintainable and, hence, the petitioner should surrender in the court below for purpose of bail.

Considering the facts and circumstances of the case, I am not inclined to grant anticipatory bail to the petitioner. The prayer for anticipatory bail is refused. However, if the petitioner surrenders in the court below within four weeks from today and prays for regular bail, the court below shall definitely consider the submissions made by the petitioner and the materials available on the record for purpose of grant of bail.

The application stands disposed of.

(Rajeev Ranjan Prasad, J)

Dilip, AR

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