

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.27808 of 2018

Arising Out of PS.Case No. -487 Year- 2017 Thana -FATUHA District- PATNA

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Upendra Kumar @ Upendra Yadav Son of Ram Prasad Yadav@ Ram Prasad Gope Resident of Village- Mirzapur Nohta, P.S. Fatuha, District Patna.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Ashok Kumar, Advocate.

For the State : Smt. Nirmala Kumari, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 08-05-2018 Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner is apprehending his arrest in a case for the offence registered under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

The prosecution story, in brief, is that total 20 liters wine is said to have been recovered.

It has been submitted by learned counsel for the petitioner that the petitioner has been made accused in the present case due to mistake of fact. There is no allegation of tampering with the witnesses alleged against the petitioner. The name of the petitioner has come in the present case as it is alleged that the



petitioner was apprehended with the motorcycle containing 20 liters of liquor. Subsequently, it is alleged that the petitioner managed to flee away from the custody of the police and for which a separate case was instituted as Fatuha P.S. Case No. 489 of 2017. It is further submitted on behalf of the petitioner that the petitioner has been granted anticipatory bail in the aforesaid case by another Co-ordinate Bench of this Court vide Cr. Misc. No. 19905 of 2018 dated 27.04.2018. In fact, another person, namely, Somar Chaudhary was apprehended by the police and who subsequently fled away from the custody of the police which is evident from paragraph no. 7 of the petition. Except for this, there is no other substantive evidence to suggest the implication of the petitioner in this case. Nothing incriminating has been recovered from the conscious possession of the petitioner. The petitioner had no knowledge regarding the alleged incident.

On behalf of the State, it is submitted that the petitioner is named in the F.I.R/ Complaint Case.

Considering the aforesaid facts and circumstances, let the petitioner above named, in the event of arrest or surrender before the learned court below within a period of six weeks from today, be released on anticipatory 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 Special Judge, Excise Act, Patna, in connection with Special Case No. 7795 of 2017, arising out of Fatuha P.S Case No. 487 of 2017, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

U.K./-

(Sudhir Singh, J)

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