

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.54103 of 2018

Arising Out of PS. Case No.-276 Year-2018 Thana- MOTIPUR District- Muzaffarpur

Sunil Sahni, son of Pathlu Sahni , resident of village - Nariyar Nawada, Ward No. 10, P.S.- Motipur, District- Muzaffarpur.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Yogendra Kumar Singh, Adv.

For the Opposite Party/s : Mr. None

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

2 11-09-2018 Heard Sri Yogendra Kumar Singh, learned counsel for the petitioner. None appeared on behalf of the State.

The sole petitioner, having clean antecedent, which fact has been stated in paragraph-3 of the petition, apprehending his arrest in Motipur P.S. Case No. 276 of 2018 registered for offence under Section 30(a) of the Bihar Prohibition and Excise Act, 2016, has prayed for grant of bail, in the event of his arrest or surrender.

Learned counsel for the petitioner submits that in the case, from the house, which was in joint possession of the petitioner and others, recovery of huge quantity of



Indian Make Foreign Liquor was shown. It has been argued that the petitioner has been made accused on an accusation, as if, he fled away after noticing the police party. He further submits that learned Special Judge, Excise, Muzaffarpur has incorrectly observed that Section 76(2) bars the jurisdiction of anticipatory bail, whereas this Court has already held that the said provision was introduced without competency of the State and said provision has been held *ultra vires*. Moreover, it has been argued that seizure was made in contravention of Section 100 of the Code of Criminal Procedure.

Be that as it may, considering the nature of accusation and clean antecedent of the petitioner, in the event of his arrest or surrender within a period of six weeks from today, let the petitioner, namely, Sunil Sahni be enlarged on bail on furnishing bail-bond of Rs. 10,000/- (ten thousand) with two surities of the like amount each to the satisfaction of learned Special Judge Excise, Muzaffarpur in connection with Motipur P.S. Case No. 276 of 2018, subject to condition as laid down under Section 438(2) of the Code of Criminal Procedure. At the same time, it is observed that



the learned Special Judge before recording such observation in its order was required to examine the judgment of this Court on the issue of entertaining anticipatory bail petitions in a case of offences under the Bihar Prohibition and Excise Act, 2016.

(Rakesh Kumar, J.)

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