

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.53638 of 2018

Arising Out of PS. Case No.-147 Year-2018 Thana- MAHISHI District- Saharsa

Md. Arsad Son of Abdul Hakim
Resident of Village- Mustafa Nagar, Ward No. 06 P.S. Saharsa, Distt.
Saharsa.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Chandra Mohan Jha, Adv.

For the Opposite Party/s : Mr. Chaubey Jawahar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

3 06-10-2018 Heard Sri Chandra Mohan Jha, learned counsel for
the petitioner and Sri Chaubey Jawahar, learned Addl. Public
Prosecutor.

The sole petitioner, apprehending his arrest in
Mahishi (Jalai O.P.) P.S. Case No. 147 of 2018 registered for the
offence under Sections 30(a), 38(i), 41(i) 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 the
petitioner has falsely been made accused in the present case. He
submits that nothing was shown to be recovered from conscious
possession of the petitioner and the petitioner in the present case
has been made accused only on the basis of disclosure made by



a driver of the truck. He submits that the police has not obtained CDR to ascertain the connection of the petitioner with other accused persons and, as such, he makes a prayer for extending the privilege of anticipatory bail.

Learned Addl. Public Prosecutor has opposed the prayer for grant of anticipatory bail.

Besides hearing, I have perused the material on record. In paragraph-3 of the petition, it has been stated that the petitioner was earlier made accused for the offence under Sections 354(B), 341, 323/34 of the Indian Penal Code and Section 8 of the POCSO Act. Normally, I am of the opinion that Section 438 of the Code of Criminal Procedure is not made for a person, who is having criminal antecedent. Besides this, on perusal of the F.I.R., it is evident that huge quantity of Indian Make Foreign liquor to the tune of more than 3,000 litres was shown to be recovered from a truck, which was loaded with the liquor in the State of Haryana. The driver, who was apprehended, disclosed before the police that the owner of the wine had entrusted him to supply the seized liquor to four persons and amongst four persons, he disclosed the name of the petitioner with his mobile number also.

Considering the antecedent of the petitioner as well as



seriousness of the accusation, there is no reason to extend the
privilege of anticipatory bail.

The anticipatory bail petition stands dismissed.

(Rakesh Kumar, J.)

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