

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43233 of 2018

Arising Out of PS.Case No. -10 Year- 2017 Thana -KADAMKUAN District- PATNA

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Birbal Kumar, S/o Bhim Prasad Yadav, R/o Janaki Nagar, P.S.- Naya Ram Nagar, District- Munger.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Usha Kumari Singh, Advocate.

For the Opposite Party : Mr. Lalan Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 23-07-2018 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 Sections 341, 342, 323, 307 and 34 of the IPC and 37 of the Bihar Prohibition and Excise Act, 2016.

The prosecution story, in brief, is that on 01.01.2017 at about 9.15 P.M. near-Dariyapur Chowk, co-accused Satish Kumar, Amit Kumar and Rahul Kumar forcefully took the informant and sat him on the motorcycle of Tiger Mobile of Gardanibagh Police Station who was in uniform having pistol and confined in a room situated in Daldali Road. After taking wine, all the accused persons assaulted the informant causing body injury. After that he was forcefully brought outside the house. When the



informant came out of the house they raised alarm of vehicles theft and having heard the sound the Quick Mobile of Kadamkuan Police Station reached there and they were taken to the police Station and admitted in P.M.C.H., Patna, for his treatment and constable of Quick Mobile managed to escape.

It has been submitted by learned counsel for the petitioner that the petitioner has got no criminal antecedent. There is no allegation of tampering with the witnesses alleged against the petitioner. The petitioner has been made accused in the present case due to mistake of fact. The petitioner is not named in the F.I.R. His name has come in course of investigation on the disclosure made by local residents. The name of the local residents, who have named the petitioner, has not been disclosed by the prosecution. He is a government employee. No offence under Section 307 of the IPC is made out nor there is any substantive evidence to suggest the implication of the petitioner for committing an offence under the Excise Act.

On behalf of the State, it is submitted that the petitioner is not 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, Patna, in connection with Special Case No. 5578 of 2017, (arising out of Kadamkuan P.S. Case No. 10 of 2017), subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

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(Sudhir Singh, J)

