

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14707 of 2019

Arising Out of PS. Case No.-227 Year-2018 Thana- PATAHI District- East Champaran

LALAN SAH Son of Ramavtar Sah, Resident of village-Mirjapur, P.O-Mirjapur, P.S.-Patahi, District-East Champaran.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Pravin Kumar

For the Opposite Party/s : Mr. R.B.roy 'Raman', APP

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 11-03-2019 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

This application for grant of anticipatory bail arises out of Patahi P.S. Case No. 227 of 2018, disclosing offence under Sections 188, 272, 273 and 290/34 of the Indian Penal Code and Sections 30(a), 34, 36, 37(B), 37(C), 38 and 41 of Bihar Prohibition and Excise Act, 2016.

The plea on behalf of the petitioner that no offence is made out, on the basis of allegation made in the First Information Report, cannot be accepted. Apparently, the petitioner's name has transpired on the basis of the confessional statement of co-accused, who was riding the motorcycle, with whom, allegedly, the petitioner was a pillion rider. The said co-accused was found to have consumed alcohol, whereas the



petitioner is said to have managed to flee away. There is no allegation even as per the confessional statement that the petitioner had also consumed alcohol. Except that the petitioner was pillion rider, as disclosed by the co-accused, there is no allegation against this petitioner.

Section 76(2) of the Bihar Prohibition and Excise Act, 2016, bars application of Section 438 of the Criminal Procedure Code. Based on the allegation made in the First Information Report, a case under Section 30(a) of the Act is made out in my opinion.

In that view of the matter, this application cannot be maintained and is accordingly dismissed.

However, considering the nature of accusation made against the petitioner, it is directed that if the petitioner surrenders before the Court below within four weeks from today and seek regular bail, if so advised, his application for regular bail shall be considered on its own merit without being prejudiced by rejection of the present application for grant of anticipatory bail by this Court on the same day.

(Chakradhari Sharan Singh, J)

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