

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15425 of 2019

Arising Out of PS. Case No.-375 Year-2018 Thana- BASANTPUR District- Siwan

=====

RAMESH RAY S/o Basudeo Ray, Resident of Village-Dabchhu, P.S-
Basantpur (Lakari Naviganj O.P.), District-Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Vijay Kumar Mishra

For the Opposite Party/s : Mr.Arun Kumar

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

5 09-07-2019 Heard learned counsel for the parties.

The petitioner apprehends his arrest in connection with Basantpur P.S.Case No. 375 of 2018 registered under Sections 272, 273 and 308/34 of the Indian Penal Code and Section 30(a) and 41(i) of the Bihar Prohibition and Excise Act, 2016.

Allegation against the petitioner, as per FIR, is that the police, upon secret information that some persons including the petitioner were unloading drums containing spirit and were indulged in selling it, reached to the place of occurrence and upon seeing the police party, 6-7 persons, who were standing there and were concealing the drums containing spirit, fled away from the spot and succeeded in the same taking advantage of darkness. It has further been alleged that the police seized three drums containing 200 litres of spirit each from the hut situated



behind the house of Bipul Ram and further six plastic drums containing 200 litres spirit each from the Dalan and hut situated in front of the house of Rama Shankar Ram and petitioner according to police has succeeded in fleeing away from the spot.

Learned counsel for the petitioner submits that petitioner has falsely been implicated in this case inasmuch as no recovery of illegal liquor has been made from the possession or house of the petitioner. He further submits that petitioner has got no criminal antecedent and from perusal of FIR, it appears that police has recovered drum containing spirit from the hut situated behind the house of Bipul Ram and Rama Shankar Ram but from the seizure list prepared at the behest of police, it would appear that place of recovery of 800 litres spirit is at the hut of one Arvind Ram, which is self contradictory. Accordingly, learned counsel submits that no case under the Excise Act is made out against the petitioner.

After having heard learned counsel for the petitioner and taking into consideration the fact that there is no recovery of any spirit from the possession or the hut or the house of petitioner and petitioner has got no criminal antecedent and from perusal of FIR, no *prima facie* case is made out against the petitioner under the Excise Act, as such I am inclined to grant anticipatory



bail to the petitioner. Let the petitioner, abovenamed, in the event of arrest or surrender before the court below within a period of four weeks from the date of receipt of a copy of this order, be released on bail upon furnishing bail bond of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of the learned ADJ-II-cum-Special Judge, Excise, Siwan in connection with Basantpur P.S.Case No. 375 of 2018; subject to condition as laid down under Section 438(2) of the Code of Criminal Procedure.

(Anil Kumar Sinha, J)

sujiit/-

U		T	
---	--	---	--

