

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14708 of 2019

Arising Out of PS. Case No.-238 Year-2018 Thana- BAUSI District- Purnia

MD. AMJAD @ MUNNA @ MD. AJMAD Son of Md. Sirajul Resident of
Village - Ghoshpokhar, P.s.- Khoribari, Distt.- Darjiling (West Bengal)

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Amit Kumar Anand

For the Opposite Party/s : Mr.Ajay Kumar Jha

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 Baisi P.S. Case No. 238 of 2018, disclosing offence under Sections 272 and 273 of the Indian Penal Code and Section 30(a) of Bihar Prohibition and Excise Act, 2016.

From a pick-up van huge quantity of foreign liquor was recovered. The driver and conductor of the said vehicle were arrested. The petitioner is the owner of the said vehicle, which is not in dispute. The vehicle has been seized.

Learned counsel appearing on behalf of the petitioner has submitted that the persons, who were arrested, did not tell the police that the owner of the vehicle was knowing that it was being used for carriage of illicit liquor. He has submitted that the



vehicle is used for commercial purpose and there is no allegation in the First Information Report that it was within the petitioner's knowledge that the vehicle was being used for illegal purpose.

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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