

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19187 of 2019

Arising Out of PS. Case No.-327 Year-2018 Thana- BARAULI District- Gopalganj

ANIL PRASAD S/o Gorakh Sah @ Gorakh Prasad Resident of Village -
Surwal, P.S.- Barauli, Dist. - Gopalganj.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Akhilesh Kumar

For the Opposite Party/s : Mr.Bharat Lal

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 29-03-2019 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

This application for grant of anticipatory bail arises out of Barauli P.S. Case No. 327 of 2018, disclosing offence punishable under Section 30(a) of Bihar Prohibition and Excise Act, 2016.

As per the case of the prosecution, in course of night patrolling one motorcycle was intercepted by the police. Two persons, who were riding the motorcycle, managed to flee away and from the dicky of the motorcycle, the police recovered 6.840 liters of foreign liquor. Allegedly, the chowkidar identified the persons with the aid of a torch, who managed to flee away as this petitioner and co-accused Chandan Prasad.

Learned counsel appearing on behalf of the petitioner has submitted that the petitioner has no criminal antecedent and



as a matter of fact, the petitioner's implication is based on suspicion possibly on the ground that the motorcycle, seized by the police, was registered in his name.

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, the petitioner is directed to surrender before the Court below within four weeks from today and seek regular bail, if so advised. If he does so, his application for regular bail shall be considered on the same day, considering the small quantity of foreign liquor seized.

(Chakradhari Sharan Singh, J)

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