

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.75181 of 2018

Arising Out of PS. Case No.-152 Year-2018 Thana- PATEPUR District- Vaishali

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Raju Kumar @ Raju Ray, S/o Shivchandra Ray, Resident of Village- Maheya,
P.S.- Patepur, District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anirudh Kumar Sinha

For the Opposite Party/s : Mr. Gauri Shankar Gupta

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 11-01-2019 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner is apprehending arrest in a case registered for the offences punishable under Sections 30(a), 32(2), 38(2) and 41(1) of the Bihar Prohibition and Excise Act, 2016.

The prosecution case as per the written report of Vijay Kumar Singh, being the A.S.I., Patepur P.S., submitted to the S.H.O., Patepur P.S., is to the effect that during patrolling, from a Wagnor vehicle 290.88 liters and from pickup van 782.72 liters total 1073 liters foreign liquor were recovered. One person is apprehended from the scene, who disclosed his name as Sudhir Kumar.

It is submitted by the learned counsel for the



petitioner that though the petitioner was named in the FIR but the FIR does not suggest that the apprehended accused person disclosed the name of the petitioner. Moreover, the petitioner was neither the owner nor the driver of the vehicle seized. A specific statement to that effect has been made in paragraph no.9 of the petition, which reads as follows:

“9. That the alleged vehicle not belongs from the petitioner, petitioner neither owner nor driver of the alleged vehicle.”

It is further submitted that there no recovery was made from the conscious possession of the petitioner. A statement has been made in paragraph no.3 of the petitioner that the petitioner is not having any criminal antecedent.

It is submitted by the learned APP for the State that the petitioner is named in the FIR.

Considering the fact that neither the petitioner was found present in the car from which seizure was made nor there is material on record to suggest that petitioner is the owner or was driving the vehicle in question, hence the presumption as to commission of the offence can not be drawn against the petitioner, coupled with the statement made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, let the above named petitioner be released on



anticipatory bail in the event of arrest/surrender before the learned Court below with a period of 12 weeks from today, on furnishing bail bond of Rs. 10,000/-(ten thousand) with two sureties of the like each to the satisfaction of learned **Additional Sessions Judge-II-cum-Special Judge, Hajipur, Vaishali** in connection with **Patepur P.S. Case No.152 of 2018**, subject to the condition as laid down under Section 438(2) of the Cr. P.C.

(Dinesh Kumar Singh, J)

Deepak/Rahul/-

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