

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23157 of 2019

Arising Out of PS. Case No.-339 Year-2018 Thana- CHANPATIA District- West Champaran

PRAMOD MAHTO S/o Satyanarayan Mahto Resident of Village-
Garabhuwa, Lala Tola, P.S.- Chanpatia, District- West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar

For the Opposite Party/s : Mr.Nand Kishore Prasad

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

2 12-04-2019 Heard learned counsel for the petitioner and learned APP for the State.

2. The petitioner apprehends his arrest for the offences alleged under Sections 467, 468, 471 and 414 IPC and Sections 30(a), 30(b) of the Bihar Prohibition & Excise Act, 2016 (for short' the Excise Act, 2016) registered in connection with Chanpatia (Sirisia O.P) P.S. Case No. 339/2018.

3. It is submitted that the petitioner has been falsely implicated and even on a plain reading of the averments in the FIR no allegation whatsoever attracting the ingredients of the offence under the Excise Act, 2016 are made out against the petitioner. The only material against the petitioner is that a motorcycle has been recovered from his house. The petitioner claims clean antecedents.

4. Ordinarily, an anticipatory bail petition in relation to the offence under the Excise Act, 2016 is not maintainable. However, where, on the basis of the statements in the first information report, the ingredients of the offence alleged against a person are not made out, as observed by a Division Bench of this Court in Cr. Misc. No. 21578 of 2017 (Manish Kumar @ Lokesh Kumar vs. The State of Bihar) and analogous cases, there would be no bar to the grant of anticipatory



bail.

5. Learned APP has not pointed out any material in the FIR alleging any offence said to have been committed by the petitioner in order to attract the provisions of the Excise Act, 2016.

6. Be that as it may, in the event of the petitioner's arrest or surrender before the court below within six weeks from the date of communication of this order, let the above named petitioner be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of like amount each to the satisfaction of learned Special Judge, Excise Bettiah, West Champaran, in connection with Chanpatia (Sirisia O.P) P.S. Case No. 339/2018, subject to the conditions as laid down under Section 438 (2) Cr.P.C. and also subject to the following further conditions:

- i. That one of the bailors shall be a close relative of the petitioner.
- ii. That the petitioner shall not indulge in any similar offence till conclusion of the trial.
- iii. That the petitioner shall co-operate with the investigation, if not already concluded, and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.
- iv. The petitioner shall remain physically present in Court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reason, his bail bond shall be liable to be cancelled by the learned Court concerned.

(Vikash Jain, J)

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