

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24342 of 2019

Arising Out of PS. Case No.-162 Year-2017 Thana- FATEHPUR District- Gaya

RAM SWAROOP YADAV Son of Late Tilak Yadav Resident of Village -
Dundu, P.S.- Fatehpur, Distt.- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shailesh Kumar

For the Opposite Party/s : Mr. Veena Kumari Jaiswal

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

2 19-04-2019 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner apprehends his arrest for the offences alleged under Sections 272, 273/34 IPC and Section 30(a) of the Bihar Prohibition & Excise (Amendment) Act, 2016 (for short 'the Excise Act') registered in connection with Fatehpur P.S. Case No. 162 of 2017.

3. It is submitted that even on the accusation in the FIR no offence whatsoever is made out against the petitioner under the provisions of the Excise Act as it has been stated by co-accused Shankar Bhuiya that he is bringing the said country made mahua wine from Ambatari, Jharkhand from the petitioner who runs a bhatthi there. The petitioner claims clean antecedents.

4. Ordinarily, an anticipatory bail petition in relation to



the offence under the Excise Act 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, having regard to the entirety of the facts and circumstances, 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), Gaya in connection with Fatehpur P.S. Case No. 162 of 2017, 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 be well represented 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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