

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23923 of 2019**

Arising Out of PS. Case No.-281 Year-2018 Thana- PATORI District-
Samastipur

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DILIP KUMAR RAY, aged about 35 years, Son of Mahendra Ray Resident
of Village-Dharanipatti, P.S-Patori, P.O-Mohanpur, District-Samastipur.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Pramod Kumar Singh, Advocate.

For the Opposite Party: APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL ORDER

2 17-04-2019 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner apprehends his arrest for the offences
alleged under Sections 342, 357, 323, 324, 307, 379, 504/34 of
the Indian Penal Code and Sections 37(b)(c) of Bihar Prohibition
and Excise Act and Sections 185, 188 of Motor Vehicle Act, 1988
registered in connection with Patory P.S. Case No. 281 of 2018.

3. It is submitted that the petitioner has been falsely
implicated merely because he happens to be the owner of the
Scorpio vehicle in which some of the occupants were found in a
drunken state. Even on the bare perusal of the F.I.R. no accusation
of such nature has been made against the petitioner as might
attract the provisions of the Bihar Prohibition and Excise Act.

4. Ordinarily, an anticipatory bail petition in relation to



the offence under the Bihar Prohibition and 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 F.I.R. alleging any offence to have been committed by the petitioner in order to attract the provisions of the said Act.

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 Additional Sessions Judge-cum-Special Judge Excise Act, Samastipur in connection with Patory P.S. Case No. 281 of 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 cooperate 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) That 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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