

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30295 of 2019**

Arising Out of PS. Case No.-1182 Year-2018 Thana- SAHARSA District-
Saharsa

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SUBODH YADAV @ NISHANT SHEKHAR, male, aged about 28 years, S/o
Chandeshwari Yadav R/o Vill. Rahua Mani, P.S.- Bangaown, District-
Saharsa

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Shubhesh Pandey, Advocate.

For the Opposite Party: APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL ORDER

3 01-08-2019 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner apprehends his arrest for the offences alleged under Sections 30(a) and 41(1) of the Bihar Prohibition and Excise Act, 2016 (for short 'the Prohibition Act') registered in connection with Saharsa Sadar P.S. Case No. 1182 of 2018.

3. It is submitted that the petitioner has been falsely implicated in connection with recovery of a total 2890 litres and 80 ml of country made foreign liquor in the godown of Bipin Jha. It is submitted that even on perusal of the F.I.R., no accusation has made out against the petitioner in order to attract the offence alleged under the Prohibition Act, as it has merely been stated that 5-6 accused persons managed to escape through a broken wall. The alleged recovery of the offending goods is from the godown of Bipin Jha without however connecting the place of recovery or the said goods to the petitioner in any manner



whatsoever. Similarly situated co-accused Ashok Yadav who is accused in five other cases of similar nature has been granted anticipatory bail by this Court by order dated 20.02.2019 in Cr. Misc. No. 9740 of 2019. The petitioner is accused in only one prior case of similar nature.

4. Ordinarily, an anticipatory bail petition in relation to the offence under the Prohibition 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 persons 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 Prohibition 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-II cum Special Judge, Saharsa in connection with Saharsha Sadar P.S. Case No. 1182 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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