

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26365 of 2019

Arising Out of PS. Case No.-21 Year-2019 Thana- CHAND District- Kaimur (Bhabua)

MULAYAM YADAV Son of Feku Yadav Resident of Village- Chand, P.S.-
Chand, District- Kaimur at Bhabua.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajani Kant Pandey

For the Opposite Party/s : Mr.Amarendra Prasad

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL ORDER

2 23-04-2019 Heard learned counsel for the parties.

This application for anticipatory bail arises out of Special (Excise) Case No. 66 of 2019, disclosing offences punishable under Section 30 of the Bihar Prohibition and Excise Act, 2016.

It cannot be said on the basis of allegation, which has been made in the First Information Report, that no offence at all is made out against the petitioner. There is some indication in the First Information Report of his participation in acting in violation of the provisions of the Bihar Prohibition and Excise Act, 2016.

Learned counsel, appearing on behalf of the petitioner has submitted that there is nothing in the First Information



Report to show that the recovery of the illicit liquor has been made from the conscious possession of this petitioner.

Be that as it may, since the offence is made out, Section 76(2) of the Bihar Prohibition and Excise Act, 2016, bars application of Section 438 of the Criminal Procedure Code.

This application, in my view, cannot be maintained and is accordingly dismissed.

However, considering the least quantity of country-made liquor (3.42 litres) recovered that to not from the possession of this petitioner, it is directed that if the petitioner surrenders before the Court below within four weeks from today and seek regular bail, his application for regular bail shall be considered and decided on the same day.

(Chakradhari Sharan Singh, J)

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