

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29714 of 2019

Arising Out of PS. Case No.-79 Year-2019 Thana- BUXAR MUFFSIL District- Buxar

HRIDYA YADAV, Son of Sriram Yadav, Resident of Village - Lalganj, P.S.-
Buxar Muffasil, Dist.- Buxar.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arvind Kumar Pradhan
For the Opposite Party/s : Mr. Bishweshwar Ram

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 06-05-2019 Heard learned counsel for the parties.

This application for anticipatory bail arises out of Buxar (Muffasil) P.S. Case No. 79 of 2019, disclosing offences punishable under Sections 30(a)/35(a) of the Bihar Prohibition and Excise Act, 2016.

The petitioner is the brother of co-accused Vijay Yadav. From the possession of said Vijay Yadav, certain amount of foreign liquor is said to have been recovered.

Learned Counsel, appearing on behalf of the petitioner, has submitted that there is allegation of recovery of about 2.160 liters of foreign liquor from the possession of Vijay Yadav. He has also submitted that allegedly the police received a secret information that the said Vijay Yadav and the petitioner were engaged in selling of liquor. Except that secret information, which the police are said to have received, there is no concrete material



in the First Information to constitute offence under the provisions of the Bihar Prohibition and Excise Act, 2016 and he, accordingly, contends that no offence is made out.

On perusal of the First Information Report, I find that so far as this petitioner is concerned, it is mentioned in the First Information Report that the police received secret information that he, with Vijay Yadav, was engaged in dealing with liquor. It is also alleged that when the police conducted the raid, two persons started fleeing, out of whom, one Vijay Yadav, was apprehended. There is allegation in the First Information Report that it was the petitioner who had fled away.

Be that as it may, since Section 76(2) of the Bihar Prohibition and Excise Act, 2016, bars application of Section 438 of the Criminal Procedure Code, this application cannot be maintained and is accordingly dismissed.

However, considering the recovery of small quantity of liquor (about 2.160 liters), the petitioner is directed to surrender before the Court below within four weeks from today and seek regular bail. If he does so, his application for regular bail shall be considered and decided on the same day.

(Chakradhari Sharan Singh, J.)

Ashish/Ragini-

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