

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29670 of 2019

Arising Out of PS. Case No.-76 Year-2019 Thana- RAFIGANJ District- Aurangabad

Lobhi Choudhary @ Sachidanand Choudhary, aged about 29 years, Son of Ghura Chaudhary Resident of Village-Charkanwan, Upardih, P.S-Rafiganj, District-Aurangabad.

... .. Petitioner

Versus

The State Of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Ashok Kumar Singh, Advocate
For the Opposite Party : APP

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

2 10-05-2019 Heard learned counsel for the petitioner and learned APP for the State.

2. The petitioner apprehends his arrest for the offences alleged under Section 30(a) of the Bihar Prohibition and Excise Act, 2016 registered in connection with Rafiganj P.S. Case No. 76 of 2019.

3. It is submitted that the petitioner has been falsely implicated on the accusation of recovery of 20 litres of Mahua wine from a room under construction adjacent to the petitioner's house. It is submitted that the said semi-constructed room does not belong to the petitioner nor he has concern in any way with recovery of the offending goods. The house of the petitioner is situated at a distance of about 300 meters from the place of the alleged seizure. The petitioner claims clean antecedents.

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 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 said Excise 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 VII - cum - Special Judge (Excise), Aurangabad in connection with Rafiganj P.S. Case No. 76 of 2019, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C. and with 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 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.

(iv) 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.

(Vikash Jain, J)

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