

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.77279 of 2018

Arising Out of PS. Case No.-94 Year-2018 Thana- PANCHRUKHI District-
Siwan

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Arun Singh @ Arun Son of Yugul Singh, Resident of Village- Vihar Buzurg,
P.S.- Patah Rekha, District- Kushinagar, State- Uttar Pradesh.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sharda Nand Mishra

For the Opposite Party/s : Mr.Sri Mritunjay Kumar Nirala

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL ORDER

2 24-01-2019 Heard learned counsel for the petitioner and learned APP for
the State.

2. The petitioner apprehends his arrest for the offences
alleged under Sections 272, 273, 308, 420 IPC and 30(a), 38, 41 of the
Bihar Prohibition & Excise Act, 2016 (for short 'the Excise Act')
registered in connection with Panchrukhi P.S. Case No. 94/2018.

3. It is submitted that even on a perusal of the FIR no offence
whatsoever is made out against the petitioner under the provisions of
the Excise Act, 2016, inasmuch as none of the activities of the
petitioner has even alleged to have been carried on within the State of
Bihar.

4. Ordinarily, an anticipatory bail petition in relation to the
offence under the Excise 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 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 FIR alleging any offence said to have been committed by the petitioner in order to attract the provisions of the Excise Act,2016.

6. Be that as it may, having regard to the entirety of the facts and circumstances, 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 Special Judge (Excise), Siwan, in connection with Panchrukhi P.S. Case No. 94/2018, 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 co-operate 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. 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)

Chandran/-

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