

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.31831 of 2019

Arising Out of PS. Case No.-642 Year-2018 Thana- SAMASTIPUR MUFFASIL District-
Samastipur

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Suraj Kumar Singh, aged about 26 years (M) Son of Pramod Kumar Singh
Resident of Village - Nirpur, P.S.- Mufassil, District – Samastipur

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Ms. Aprajita,
Mr. Brisketu Sharan Pandey
Ms. Kumari Shubham, Advocates
For the Opposite Party : APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

2 15-05-2019 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 Samastipur Mufassil P.S. Case
No. 642 of 2018.

3. It is submitted that the petitioner has been falsely
implicated in connection with the alleged recovery of 9 bottles of 375
ml each of foreign liquor from the hut and the orchard behind the
petitioner's shop. It is submitted that even on bare perusal of the
FIIR, no accusation for the offence alleged under the provisions
Bihar Prohibition and Excise Act, 2016 has been made against the
petitioner. Statement is made at the Bar that the hut and orchard
where recovery of the incriminating articles was made do not belong
to the petitioner. It is therefore submitted that even on the averments
made in the FIR, no offence under the Bihar Prohibition and Excise



Act, 2016 is made out against the petitioner, who 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 District Judge III-cum-Special Judge Excise Samastipur in connection with Samastipur Mufassil P.S. Case No. 642 of 2018, subject to the conditions as laid down under Section 438 (2) 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) 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.

(Vikash Jain, J)

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