

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.80243 of 2018

Arising Out of PS. Case No.-293 Year-2018 Thana- GORAUL District- Vaishali

Manish Kumar son of Late nand Kishor Rai resident of village - Bishunpur
Adda, P.S. - Goraul, District - Vaishali

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ganesh Prasad Singh

For the Opposite Party/s : Mr.Sri Anuj Kumar Srivastava

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

ORAL ORDER

2 22-01-2019 Heard learned counsel for the parties.

This application for anticipatory bail arises out of
Goraul P.S. Case No.193 of 2018, disclosing offences under
Sections 30(a) of the Bihar Prohibition and Excise Act, 2016.

It is submitted on behalf of the petitioner that though
he has been named in the first information report, no offence
can be said to be made out, on the basis of what has been
alleged in the first information report. The petitioner's
implication is merely on the basis of information, which the
Police are said to have received from the villagers. It is not
disclosed that it was the petitioner, who had concealed the
foreign liquor.

The Court does not intend to record a finding at the



stage that no offence is made out under the provisions of Bihar Prohibition and Excise Act, 2016, on the basis of what has been alleged in the first information report. It is, however, correct that except the secret information which the police are said to have received, there is no other allegation of connect the petitioner with the offence.

In view of 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, the petitioner is directed to surrender before the Court below within four weeks from today and seek regular bail, if so advised. If he does so, his application for regular bail shall be considered and decided on its own merit on the same day, without being prejudiced by rejection of the present application for grant of anticipatory bail by this Court, keeping in mind the fact that petitioner's implication is based only on secret information.

Learned counsel, appearing on behalf of the petitioner, contends that despite orders being passed by this Court, the court below are not entertaining the applications for regular bail on the same day and are taking the accused persons



into custody, without passing any order on regular bail applications.

The petitioner shall be at liberty to file an affidavit in the present case itself and make a mention to this Court, if the petitioner's application for regular bail is not decided on the same day by the court below, in accordance with the direction issued in the present order.

(Chakradhari Sharan Singh, J)

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