

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31546 of 2019**

Arising Out of PS. Case No.-82 Year-2019 Thana- GOVERNMENT
OFFICIAL COMP. District- Samastipur

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DEEPAK KUMAR @ BABY, aged about 24 years, male, Son of Sudhir
Thakur Resident of Village - Repura, P.S.- Waini (O.P.), District-
Samastipur

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Dharendra Kumar, Advocate.

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 Sections 30(a) of the Bihar Prohibition and Excise
Act, 2016 registered in connection with Excise Case No. 82 of
2019.

3. It is submitted that the petitioner has been falsely
implicated and even a perusal of the prosecution report there is
nothing to connect the petitioner with the alleged recovery of
about 27.60 litres of foreign liquor from the pile of sand in front
of the petitioner's house. In absence of any allegation
whatsoever, it is submitted that the offence alleged under the
Excise Act are not made out against the petitioner. 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 persons 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 F.I.R. alleging any offence to have been committed by the petitioners in order to attract the provisions of the said 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 ADJ-II cum Special Judge Excise Samastipur or concerned court in connection with Excise Case No. 82 of 2019, 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 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.

(iv) 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.

(Vikash Jain, J)

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