

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31435 of 2019**

Arising Out of PS. Case No.-35 Year-2019 Thana- SIWAN MUFFASIL
District- Siwan

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GAUTAM KUMAR S/o Late Bajindra Chaudhari R/o village- Orma Bazar,
P.S.- Siwan Muffasil, District- Siwan

... .. Petitioner

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Bijay Prakash Singh, Advocate.

For the Opposite Party: APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL ORDER

3 05-08-2019 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 of the Indian Penal Code and Section 30(a) of Bihar Prohibition and Excise Act, 2018 (for short 'the Prohibition Act') registered in connection with Siwan Muffasil P.S. Case No. 35 of 2019.

3. It is submitted that the petitioner has been falsely implicated in connection with alleged recovery of 34 litres and 560 ml of foreign liquor. It is submitted that according to the F.I.R., the recovery has been made from a bush behind the house of the petitioner. There is no allegation to connect the petitioner with the alleged recovery and no accusation has been made out against the petitioner in order to attract the offence alleged under the Prohibition Act, as it has merely been stated that the petitioner managed to run away. The petitioner claims clean antecedents.



4. Ordinarily, an anticipatory bail petition in relation to the offence under the Prohibition 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 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 petitioner in order to attract the provisions of the said Prohibition 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 2nd Additional Sessions Judge cum Special Judge, Excise Siwan in connection with Siwan Muffasil P.S. Case No. 35 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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