

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33435 of 2019**

Arising Out of PS. Case No.-16 Year-2019 Thana- SAHJAHANPUR District- Patna

Bhushan Choudhary son of Sukhu Choudhary Resident of -Village Sarthua,
P.S.- Shahjahanpur, District- Patna.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Ms. Mira Kumari, Advocate

For the Opposite Party/s : Mr. Abhay Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER**

2 21-05-2019 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner seeks bail in connection with Special
Case No.2813 of 2019 arising out of Shahjahanpur P.S. Case
No.16 of 2019 dated 15.03.2019 registered under Sections 37(a)
(b)(c) of the Bihar Prohibition and Excise Act, 2016 and
Sections 25(1-B)(a), 26 and 35 of the Arms Act.

The allegation against the petitioner is that he was
found drunk and from his possession three live cartridges
of .303 bore were recovered. He is in custody since 16.03.2019.

Learned counsel for the petitioner submitted that
the petitioner has been apprehended by the police merely on



suspicion. Nothing was recovered from his conscious possession. He was tested with breath test by breath analyzer instrument. The constable who operated the instrument was not at all qualified to hold alcohol screening test. It is also not known whether the instrument used by the police was properly calibrated or not. His blood sample was never taken to confirm whether he was drunk or not. He has further contended that the petitioner has got no criminal antecedent and he is in custody since 16.03.2019.

Per contra, learned counsel for the State opposed the application for grant of bail to the petitioner.

Considering the submissions made above, the petitioner is directed to be released on bail on furnishing bail bond of Rs.10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise, Patna in connection with Special Case No.2813 of 2019 arising out of Shahjahanpur P.S. Case No.16 of 2019 subject to the following conditions:-

- (a) that the petitioner shall attend court in accordance with the conditions of the bond executed,
- (b) that the petitioner shall not commit an offence similar to the offence of the present case, and
- (c) that the petitioner shall not directly or indirectly make any inducement, threat or



promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

Md. S/-

(Ashwani Kumar Singh, J)

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