

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36611 of 2019

Arising Out of PS. Case No.-139 Year-2019 Thana- GOVT. OFFICIAL COMPLAINT CASE
District- Sheikhpura

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Dharmendra Chauhan, S/o Krishna Chauhan, R/o Village- Barari Bigha, P.S.-
Chewara, District- Sheikhpura

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Devendra Prasad Singh
For the Opposite Party/s : Mr.Abhay Kumar Roy

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 12-06-2019 Heard learned counsel for the petitioner and learned
APP representing the State.

Petitioner, in the present case, is seeking anticipatory
bail in connection with Excise Case No. 139 of 2019 registered
for the offences punishable under Section 30(a) of the Bihar
Prohibition and Excise Act, 2016.

Learned counsel for the petitioner submits that prayer
for anticipatory bail of the petitioner has been wrongly rejected
by the learned 2nd Additional District and Sessions Judge,
Sheikhpura by recording a wrong fact inasmuch as it would
appear from the impugned order that the alleged recovery is said
to have been made from the possession of the petitioner, but the
fact is that the recovery has been made from a lonely place



situated north-east to the Pokhar and there is no allegation at all that the alleged recovery/seizure has been made from the possession of this petitioner. It is submitted that the petitioner has no criminal antecedent and after alleged seizure his name has been introduced as an accused in the FIR on the basis of the statement allegedly made by a co-villager that this petitioner was engaged in manufacturing of illicit liquor. It is submitted that there is no prima-facie material to support the allegations and, therefore, in view of the Full Bench judgment of this Court in the case of Ram Vinay Yadav Vs. The State of Bihar reported in 2019(2) PLJR 1089, the prayer for anticipatory bail may be considered.

Learned APP for the State has though opposed the prayer for bail, but submits that from the records at least it does not appear that the alleged recovery/seizure has been made from the physical possession or residential premises of the petitioner.

Considering the facts and circumstances of the case wherein the seizure is said to have been made from a lonely place situated north-east to the Pokhar and there is no allegation that such seizure has been made from the physical possession or residential house of the petitioner and further that the petitioner has no criminal antecedent, let in case of arrest or surrender of



the petitioner within a period of four weeks from today, the abovenamed petitioner be enlarged on bail on furnishing bail bond of Rs.15,000/- (rupees fifteen thousand) with two sureties of the like amount each to the satisfaction of the learned A.D.J.- II, Sheikhpura in connection with Excise Case No. 139 of 2019, subject to the condition prescribed under Section 438(2) of the Cr.P.C.

(Rajeev Ranjan Prasad, J)

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