

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35883 of 2019

Arising Out of PS. Case No.-32 Year-2019 Thana- ROHTAS District- Rohtas

Ramesh Rajwar, S/o Parashu Rajwar @ Parshuram Ram R/o village-
Ruphatha, P.S.- Amjor, District- Rohtas at Sasaram

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Raghunandan Kumar Singh

For the Opposite Party/s : Mr.Ram Bilash Roy Raman

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 04-06-2019 Heard learned counsel for the parties.

The petitioner apprehends his arrest in connection with
Rohtas P.S.Case No. 32 of 2019 registered under Section 30(a)
of the Bihar Prohibition and Excise Act, 2016.

Allegation against the petitioner, as per the FIR, is that on
15.02.2019, the police, while were on patrolling duty, received
information that near Ranjan Bhattha (brickkiln), one Ramesh
Rajwar, son of Parshu Rajwar, was involved in preparing illegal
country made liquor and in order to ascertain the fact, they
proceeded towards Ranjan Bhattha and they saw that at the
distance of about 500 Gaj, there was some sign of fire coming
out and saw one person fleeing away towards forest and he
succeeded in fleeing away taking advantage of bush and forest
and when they reached near the spot, they saw that *Chulha* was



burning over there and a small utensil was kept near *Chulha* in which *Mahua* flower was there. The police got impression that some liquor was being prepared over there and upon their arrival, same was tried to throw after getting it down from *Chulha* but failed in efforts. The police found 12 litres country made liquor at the distance of 20 Gaj and some *Mahua* also. It has further been alleged that some farmers working in the field disclosed the name of the person, who fled away from the place of occurrence, as Ramesh Rajwar, son of Parshu Rajwar i.e., the petitioner.

Learned counsel for the petitioner submits that petitioner belongs to some other village Ruphatha and not the village where raid was conducted by the police. He further submits that no recovery has been made from the conscious possession of the petitioner and he has got no criminal antecedent. Learned counsel further submits that petitioner has been implicated merely on the basis of his name disclosed by some farmers working in the field near the place of occurrence, however, names of farmers and the persons who told about the petitioner's identity, have not been disclosed by the police. Further submission is that procedure as prescribed under Section 100 of the Cr.P.C. for seizure has also not been followed by the



police. Accordingly, he submits that no *prima facie* case is made out against him on the basis of allegation made in the FIR as such petitioner deserves benefit of anticipatory bail in view of judgment rendered by the Full Bench in Cr. Appeal (SJ) No. 431 of 2019.

After having heard learned counsel for the parties and from the perusal of FIR and materials on record, it appears that name of the petitioner has only occurred on the basis of information given by the farmer whose identity has not been disclosed by the police in the FIR and further, no recovery of country made liquor has been made from the conscious possession of the petitioner or house or the place belonging to the petitioner. Accordingly, on the basis of FIR, it can safely be said that *prima facie* no offence is made out against him.

Accordingly, the petitioner, abovenamed, in the event of arrest or surrender before the court below within a period of four weeks from the date of receipt of a copy of this order, is directed to be released on bail upon furnishing bail bond of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-II-Special Judge, Excise Act, Rohtas at Sasaram in connection with Rohtas P.S. Case No. 32 of 2019; subject to condition as laid down under Section



438(2) of the Code of Criminal Procedure.

(Anil Kumar Sinha, J)

sujit/-

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