

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35861 of 2019

Arising Out of PS. Case No.-130 Year-2018 Thana- MASAUDHI District- Patna

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Shashi Manjhi @ Shashi Kumar, Son of Sidheshwar Manjhi, Resident of
Village-Tineri Musahari, P.S.-Masaurhi, District-Patna.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ajay Kumar Sinha
For the Opposite Party/s : Mr.Ram Bachan Singh

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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
Special Case No. 2037 of 2018 arising out of Masaurhi
P.S.Case No. 130 of 2018 registered under Section 30(a) of the
Bihar Prohibition and Excise Act, 2016.

Allegation against the petitioner, as per the FIR, is that
upon receiving information, on 01.05.2018, the police party
raided behind the Anganbari School Centre in village Tiner and
seeing the police, accused persons succeeded in fleeing away. It
has further been alleged that assembled villagers informed the
police about the persons who fled away from the spot including
the petitioner, whose name appears at sl. no. 5 in the FIR. The
police seized 20 litres country made Mahaua liquor from the
spot and prepared the document thereof.



Learned counsel for the petitioner 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 source of information about the name of petitioner has not been disclosed in the FIR inasmuch as which person has taken the name of the petitioner before the police is not mentioned in the FIR which creates doubt about the involvement of the petitioner in the offence. He submits that in absence of any recovery of country made liquor from the conscious possession of the petitioner, no *prima facie* case is made out against him as such he 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 taken into consideration the fact that there is no recovery of liquor from the petitioner and further the name of the petitioner has been brought in the FIR on the basis of information given by the villagers and also the name of villager who has given the information to the police is not disclosed in the FIR, in my opinion, *prima facie*, no offence against the petitioner is made out on the basis of allegation made in the FIR and petitioner deserves benefit of anticipatory bail in the present matter.



Accordingly, let 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, 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 Special Judge, Excise, Patna in connection with Special Case No. 2037 of 2018 arising out of Masaurhi P.S. Case No. 130 of 2018; 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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