

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38737 of 2019

Arising Out of PS. Case No.-85 Year-2019 Thana- KISHANGANJ District- Kishanganj

Nemai Dutta Son of Late Nil Ratan Dutta Resident of Village 247-Simanta
Colony , P.S.- Kalyani District- Nadiya (WB). Petitioner

Versus

The State of Bihar Opposite Party

Appearance :

For the Petitioner/s : Mr.Ram Prawesh Kumar

For the Opposite Party/s : Mr.Zainul Abedin

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 25-06-2019 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

This application for grant of anticipatory bail arises out of Kishanganj P.S. Case No. 85 of 2019, disclosing offence under Section 30(a) of Bihar Prohibition and Excise Act, 2016.

The petitioner has been made accused mainly on the ground that he is owner of the Tata 407 vehicle, bearing registration No.WB80/0104, which was carrying huge quantity of liquor.

Learned counsel appearing on behalf of the petitioner contends that the vehicle was given on rent to CTI Infrastructure Private Limited and the petitioner was unaware of the fact that the vehicle might be used for illegal purpose. He has drawn my attention to a Division Bench decision of this Court dated 21.05.2019 passed in C.W.J.C. No. 10439 of 2019 (CTI



Infrastructure Private Limited vs. the State of Bihar and Others), which has dealt with the same consignment, intercepted by the police on 15.02.2019, whereby the vehicle seized has been directed to be released and confiscation proceeding has been quashed.

Be that as it may, it cannot be said that no offence under the provisions of the Bihar Prohibition and Excise Act, 2016 is made out.

In view of the Full Bench decision of this Court in case of *Ram Vinay Yadav Vs. The State of Bihar*, reported in **2019(2) PLJR 1089 (F.B.)**, and the provisions under Section 76(2) of the Bihar Prohibition and Excise Act, 2016, this application for anticipatory bail cannot be maintained.

This application is accordingly dismissed as not maintainable.

However, the petitioner is directed to surrender before the Court below within four weeks from today and seek regular bail, if so advised. If he does so, his application for regular bail shall be considered, on the same day, on its own merit without being prejudiced by rejection of the present application for grant of anticipatory bail by this Court.

(Chakradhari Sharan Singh, J)

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