

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.38173 of 2019**

Arising Out of PS. Case No.-47 Year-2019 Thana- HULASGANJ District- Jehanabad

Nitesh Kumar @ Bishu, aged about 28 years (Male), Son of Amerika Sharma  
Resident of Village-Kandaul, P.S.- Ghosi, District - Jehanabad.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

**Appearance :**

For the Petitioner : Mr. Shivendra Prasad, Advocate

For the Opposite Party : Mr. Jitendra Kr. Singh, APP

**CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN**  
**ORAL ORDER**

2      27-06-2019                      Heard learned counsel for the petitioner and learned APP  
for the State.

2. The petitioner apprehends his arrest for the offences alleged under Section 30(a) of the Bihar Prohibition and Excise Act, 2016 registered in connection with Hulasganj P.S. Case No. 47 of 2019.

3. It is submitted that the petitioner has been falsely implicated and admittedly, recovery of the offending goods has been made from a plot falling adjacent to the south of the petitioner's house. A categorical statement has been made in paragraph 11 of the bail petition that the place wherefrom recovery of the offending goods has been made, does not belong to the petitioner. The only allegation against the petitioner in the entire FIR is that on seeing the police vehicle, the petitioner is said to have run away from the door of his house. There is no whisper about the allegation to connect the petitioner with the recovered goods and as such no offence under the Bihar Prohibition and Excise Act, 2016 is made out against him.

4. Ordinarily, an anticipatory bail petition in relation to the offence under the Bihar Prohibition and Excise Act, 2016 is not maintainable. However, where, on the basis of the statements in the first information report, the ingredients of the offence alleged against a person are not made out, as observed by a Division of this Court in



Cr. Misc. No. 21578 of 2017 (Manish Kumar @ Lokesh Kumar Vs. The State of Bihar) and analogous cases, there would be no bar to the grant of anticipatory bail.

5. Learned APP has not pointed out any material in the FIR alleging any offence said to have been committed by the petitioner in order to attract the provisions of the said Excise Act.

6. Be that as it may, in the event of the petitioner's arrest or surrender before the court below within six weeks from the date of communication of this order, let the above named petitioner be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of like amount each to the satisfaction of learned 2nd Additional Sessions Judge, Jehanabad in connection with Hulasganj P.S. Case No. 47 of 2019, subject to the conditions as laid down under Section 438 (2) Cr.P.C. and with further conditions -

(i) That one of the bailors shall be a close relative of the petitioner.

(ii) That the petitioner shall not indulge in any similar offence till conclusion of the trial.

(iii) That the petitioner shall remain physically present in court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reason, his bail bond shall be liable to be cancelled by the learned Court concerned.

(iv) The petitioner shall cooperate with the investigation, if not already concluded, and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

**(Vikash Jain, J)**

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