

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42758 of 2019

Arising Out of PS. Case No.-98 Year-2019 Thana- BUXAR MUFFSIL District- Buxar

Rahul Kharwar @ Rahul Kumar, son of Ravindar Kharwar, Resident of Village- Chousa, Near Buniyadi School, P.S.- Buxar (M), District- Buxar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Umesh Lal Verma

For the Opposite Party/s : Mr.Vinod Shanker Modi

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 10-07-2019 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

Petitioner apprehends his arrest in connection with Buxar (Muff.) P.S. Case No.98 of 2019 for the offence punishable under Section 30(a) of Bihar Prohibition and Excise Act, 2016.

The allegation against the petitioner is that the police party in the night of 29.03.2019 was on patrolling duty saw that one person was carrying green plastic bags upon his head. It has further been stated that upon seeing the police party, he tried to flee away and succeeded in fleeing away by throwing the plastic bags. The police party in the light of torch identified the person as the petitioner and from the plastic bags, 132 bottles containing 200 ml each of country-made liquor has been



recovered.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated by the police party inasmuch as from the bare perusal of the First Information Report, no recovery of liquor has been made from the conscious possession or the premises of the petitioner. Learned counsel further submits that from perusal of the seizure list, it would be evident that the recovery was made from public place, i.e., from Chausa Market, near Durga Mandir, Buxar.

Learned counsel for the petitioner submits that petitioner has got no criminal antecedent and has falsely been implicated in this case with oblique motive.

After having heard learned counsel for the petitioner as well as learned counsel appearing on behalf of the State and taking into consideration the fact that illegal liquor has not been recovered from the petitioner nor the premises belonging to the petitioner but on the contrary the same has been seized from the public place near the market and further taking into consideration the fact that the petitioner has got no criminal antecedent and from perusal of statement made in First Information Report, I am satisfied that no prima facie case under the Excise Act is made out against the petitioner, as such I



am inclined to grant anticipatory bail to the petitioner.

Accordingly, the petitioner is directed to surrender before the learned Court below within a period of four weeks and in the event of surrender by the petitioner, he shall be released on anticipatory bail by the Court below upon furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Addl. District and Sessions Judge-II-cum-Spl. Judge (Excise) Buxar, subject to the condition as mentioned under Section 438 (2) of Cr.P.C.

(Anil Kumar Sinha, J)

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