

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40420 of 2019

Arising Out of PS. Case No.-52 Year-2019 Thana- BHAGWANPUR District- Begusarai

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RAGHU MUKHIYA @ ARUN MUKHIYA Son of Late Ram Kisun Mukhiya
Resident of Village - Bhith, P.S.- Bhagwanpur, District - Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Bipin Kumar
		Mr. R.V.P.Singh @ Sanjay
For the Opposite Party/s :		Mr.R.P.Nat, APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

2 03-07-2019 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(d) of the Bihar Prohibition & Excise Act, 2016 (for short 'the Prohibition Act') registered in connection with Bhagwanpur P.S. Case No. 52 of 2019.

3. It is submitted that the petitioner has been falsely implicated on the accusation of running away on seeing the police party and thereafter recovery of three black colour 40 litres empty box and one blue colour 40 litres empty box. It is submitted that even on perusal of the FIR along with seizure list the ingredient of Section 30(d) of the Prohibition Act are not made out against the petitioner as the nature or purpose contemplated in the said provision have not been stated.



4. Ordinarily, an anticipatory bail petition in relation to the offence under the Prohibition Act 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 Bench 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 Prohibition Act.

6. Be that as it may, having regard to the entirety of the facts and circumstances, 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 Additional Sessions Judge II-cum-Special Judge, Excise Act, Begusarai, in connection with Bhagwanpur P.S. Case No. 52 of 2019, subject to the conditions as laid down under Section 438 (2) Cr.P.C. and also subject to the following 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 co-operate 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.

iv. 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.

(Vikash Jain, J)

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