

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43796 of 2019

Arising Out of PS. Case No.-65 Year-2019 Thana- TAJPUR District- Samastipur

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DHEERAJ KUMAR S/o Vidya Nand Rai Resident of ward no. 6, Village-
Morawa Gadh, P.S.- Tajpur, District- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Kundan Kumar
For the Opposite Party/s : Mr.Md. Fahimuddin

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 17-07-2019 Heard learned Counsel for the petitioner and learned
Additional Public Prosecutor for the State.

This application, for grant of anticipatory bail, arises out of Tajpur Police Station Case No. 65 of 2019, disclosing offences under Sections 272/273 of the Indian Penal Code and Sections 30 (a)/41(1)/41(2) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as ‘the Act’).

The prosecution case is that the police, while checking vehicles near Morwa Bazaar, intercepted two persons coming on a motorcycle, who tried to flee away, but they were caught and arrested by the police and on search of the motorcycle, 0.750 litres of illicit liquor was recovered from the motorcycle in question. It is alleged that the arrested person had disclosed that the illicit liquor, purchased by the arrested



persons, was for consumption of te petitioner.

Learned Counsel for the petitioner submits that the petitioner is innocent and his name has surfaced on the basis of the confessional statement of the co-accused, who were arrested by the police along with the illicit liquor. He further submits that the motorcycle, from which the illicit likquor was recovered, does not belong to the petitioner and the petitioner has got no criminal antecedent. As such, no *prima facie* case is made out against the petitioner under the provisions of the Act.

After having heard learned Counsel for the parties and taking into consideration the fact that the illicit liquor has not been recovered from the possession of the petitioner or from his vehicle and his name has surfaced on the basis of the confessional statement of the co-accused, in my opinion, no *prima facie* case is made out against the petitioner under the provisions of the Act. Accordingly, this application is allowed.

Let the petitioner, Dheeraj Kumar, in the event of his arrest or surrender before the Court below within four weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned 2nd Additional Sessions Judge -cum- Special Judge, Excise, Samastipur, in connection with Tajpur



Police Station Case No. 65 of 2019, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.

Prabhakar Anand/-

(Anil Kumar Sinha, J.)

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