

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42912 of 2019

Arising Out of PS. Case No.-47 Year-2019 Thana- GAUNAHA District- West Champaran

VINOD SINGH Son of Arjun Singh Resident of Village - Madhopur Bairiya,
P.S.- Gaunaha, Dist.- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bimlesh Kumar Pandey

For the Opposite Party/s : Mr.Md. Iftekhar Mahmood

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 12-07-2019 The petitioner apprehends his arrest in connection with Gaunaha P.S. Case No. 47 of 2019 registered under Section 30(a) of the Bihar Prohibition and Excise Act.

Allegation, as per FIR, is that police, on secret information that two persons were carrying illicit liquor on motorcycle, intercepted them near Solar Power Plant at Rampurwa-Harpur Road and upon seeing the police, persons riding on motorcycle tried to fled away after throwing the plastic bag, containing illicit liquor having total quantity of 18 litres. The police apprehended two persons, who were riding on motorcycle i.e., Anil Mukhia and Harilal Mukhiya and they disclosed the name of the petitioner saying that they were going to deliver liquor in question to the petitioner.

Learned counsel for the petitioner submits that petitioner has falsely been implicated in the present case merely on the



basis of statement made by co-accused, who was arrested by the police. Learned counsel further submits that from perusal of seizure list, it does not appear that whose motorcycle was seized by the police and what was the number of the motorcycle from which alleged liquor was being carried out. Learned counsel, placing reliance on Section 30(a) of the Act, submits that from reading of charging Section, it does not appear that petitioner was found in possession or transporting illicit liquor on the motorcycle in question. Learned counsel further, by referring Annexure-2 of this application, submits that in fact the petitioner had sold the motorcycle owned by him to Anil Mukhia on 26.03.2019 i.e., prior to the FIR lodged on 28.04.2019 and insisted Anil Mukhia to get it transferred in his name but he did not get the motorcycle transferred in the name of the petitioner. Due to insistence of the petitioner about transfer of motorcycle in question Anil Mukhia took the name of the petitioner without any basis before the police when he was arrested along with illicit liquor. Learned counsel further submits that from the seizure list, it is not clear that liquor was being carried on the motorcycle sold by the petitioner was in the name of Anil Mukhia because no registration number or chassis number of the motorcycle is mentioned in the seizure



list.

On the other hand, learned counsel for the State vehemently opposed the prayer for anticipatory bail and submits that name of the petitioner has been disclosed by co-accused who was arrested by the police and merely on the basis of sale letter and the affidavit, it cannot be presumed that motorcycle was actually sold by the petitioner in the name of Anil Mukhia inasmuch as final transfer of ownership is valid document showing sale of vehicle by owner, which has not been done in the present case.

After having heard learned counsel for the parties and taking into consideration the fact that from perusal of seizure list, it does not appear that illicit liquor was recovered from the motorcycle owned by the petitioner and further that the sale letter of the motorcycle owned by the petitioner was prepared in favour of Anil Mukhia prior to date of occurrence. Accordingly, on the basis of statement made in the FIR and the seizure list and taking into consideration the fact that no liquor has been recovered from the possession or vehicle of the petitioner as such no *prima facie* case is made out against the petitioner, therefore, I am inclined to grant anticipatory bail to the petitioner.



Let petitioner, above named, in the event of arrest or surrender before the court below within a period of four weeks from the date of receipt of a copy of this order, be released on bail upon furnishing bail bond of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of the learned Special Judge, Excise, Bettiah, West Champaran in connection with Gaunaha P.S.Case No. 47 of 2019; subject to condition as laid down under Section 438(2) of the Code of Criminal Procedure.

(Anil Kumar Sinha, J)

sujit/-

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