

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.43254 of 2019**

Arising Out of PS. Case No.-96 Year-2019 Thana- MASHRAK District- Saran

ALI IMAM, son of Sajamuddin, r/o. Vill. Kapshar Phulwariya, P.S. Maker,  
District Saran at Chapra

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Dewendra Narayan Singh  
For the Opposite Party/s : Mr.Pradeep Narain Kumar

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

2      12-07-2019                      Heard learned counsel for the petitioner and learned APP  
for the State.

2. The petitioner apprehends his arrest for the offences alleged under Sections 272, 273 of the Indian Penal Code and Sections 30, 30(a) and 38 of the Bihar Prohibition & Excise Act, 2016 (for short 'the Prohibition Act') registered in connection with Mashrakh P.S. Case No. 96 of 2019.

3. It is submitted that the petitioner has been falsely implicated and even on perusal of the First Information Report the allegations do not whisper of any offence made out against the petitioner, who has not been arrested at the spot, but merely state that the petitioner ran away from the place of occurrence. Such act by itself in absence of any other allegation does not constitute an offence under the provision of the Prohibition Act. The petitioner claims clean antecedents.

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 Excise Act,2016.

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 Additional District and Sessions Judge IX-cum- Special Judge Excise, Saran at Chapra in connection with Mashrakh P.S. Case No. 96 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)**

Chandran/-

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