

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.49819 of 2019**

Arising Out of PS. Case No.-16 Year-2019 Thana- GAUNAHA District- West Champaran

Prakash Mahto Son of Late Raghunath Mahto Resident of Village-Tahkaul,  
P.S.-Gaunaha, District-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.Gauri Shankar Gupta

**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA**  
**ORAL ORDER**

2      08-08-2019                      Heard learned counsel for the petitioner and learned  
A.P.P. for the State.

The petitioner apprehends his arrest in connection with Gaunaha P.S. Case No. 16 of 2019, registered under Section 30(a) of Bihar Prohibition and Excise Act, 2016.

The allegation against the petitioner is that the house of the petitioner was raided by the police and recovered 10 liter country made streaming liquor from the house of the petitioner.

Learned counsel for the petitioner submits that petitioner has falsely been implicated in this case and has got no criminal antecedent. Learned counsel further submits that at the time of raid nobody was present at the house and the police did not follow the procedure of search and seizure under Section 100 of Cr.P.C. and further the house in question was not sealed



by the police as per provision of Section 62 of Bihar Prohibition and Excise Act.

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 from perusal of the first information report and the seizure list it is evident that the illicit liquor has been recovered from the house of the petitioner, accordingly, in view of Full Bench Judgment passed in **Cr. Appeal (S.J.) No. 431 of 2019**, I am not inclined to exercise my discretion under Section 438 of Cr.P.C. As such the present anticipatory bail application is rejected.

However, If the petitioner surrenders before the court below within a period of fifteen days from today and seeks regular bail, the learned court below shall consider his application for regular bail on the same day without being prejudiced to the fact that the present application has been dismissed.

**(Anil Kumar Sinha, J)**

Rahul/-

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