

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.50461 of 2019

Arising Out of PS. Case No.-113 Year-2018 Thana- BARAULI District- Gopalganj

Sanjeev Kumar, Age 30 years (M), Son of Shivshankar Yadav Resident of
Village-Paharpur, P.S.- Barhariya, District – Siwan

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Umesh Kumar Singh, Advocate
For the Opposite Party : APP

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

2 14-08-2019 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(a) of the Bihar Prohibition and Excise Act,
2016 (for short, “the Prohibition Act, 2016”) registered in connection
with Barauli P.S. Case No. 113 of 2018, G.R. No. 1679 of 2018.

3. It is submitted that the petitioner has been falsely
implicated and from perusal of the FIR itself it is evident that no
accusation under the Prohibition Act, 2016 whatsoever has been
made against the petitioner. On the contrary, three arrested accused
persons uniformly stated that the driver of Bolero vehicle bearing
registration no. BR29 E 6606 from which 112.500 litres of foreign
liquor had been seized, had brought the said Bolero vehicle without
informing Sanjeev Kumar (petitioner) on the instructions of the said
three accused persons who were running their business of liquor. It
is therefore submitted that as far as allegation against the petitioner is
concerned, no offence under the provisions of the Prohibition Act,



2016 is made out. The petitioner claims clean antecedents.

4. Ordinarily, an anticipatory bail petition in relation to the offence under the Bihar Prohibition and Excise Act, 2016 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 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 said Prohibition 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 II cum Special Judge, Excise Gopalganj in connection with Barauli P.S. Case No. 113 of 2018, G.R. No. 1679 of 2018, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C. and with 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 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.

(iv) 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.

(Vikash Jain, J)

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