

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.49802 of 2019**

Arising Out of PS. Case No.-147 Year-2019 Thana- TURKAULIYA District- East  
Champaran

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Gagendra Rai @ Gagi Rai S/o Late Munsai Rai Resident of Kagni, P.S.-  
Turkawaliya, Distt.- East Champaran

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.Dhannjay Kumar No 2

For the Opposite Party/s : Mr.Md. Anbzarul Haque Sahara

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

2      08-08-2019                      Heard learned counsel for the petitioner and learned  
counsel appearing on behalf of the State.

Petitioner apprehends his arrest in connection with  
Turkauliya (Raghunathpur) P.S. Case No.147 of 2019 for the  
offence punishable under Sections 272, 273/34 of the Indian  
Penal Code and Section 30(a) (I), 41(i) of Bihar Prohibition and  
Excise Act, 2016.

The allegation against the petitioner as per the First  
Information Report is that police on some information  
intercepted a pick-up van and recovered total quantity of 2310  
litres of illicit spirit from the pick-up van, arrested one Upendra  
Rai, who disclosed the name of the petitioner and others.

Mr. Dhanjay Kumar No.2, learned counsel appearing



for the petitioner submits that petitioner has falsely been implicated on the basis of statement made before the police by arrested co-accused. Learned counsel further submits that pick-up van from which the illicit spirit has been recovered belongs to Upendra Rai and does not belong to the petitioner as the petitioner has categorically stated in paragraph 9 of the bail application.

Learned counsel further submits that in paragraph 6 of the bail application, due to the typing error, it has come that petitioner is owner of the vehicle but in fact owner of the pick up van is Upendra Rai and not the petitioner. Learned counsel further submits that upon perusal of the First Information Report and seizure list, it would be evident that no illicit spirit has been recovered from the possession or the vehicle belonging to the petitioner, as such no prima facie case under the Excise Act is made out against the petitioner.

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 illicit spirit has not been recovered from the conscious possession or the vehicle belonging to the petitioner, as such, I am inclined to grant anticipatory bail to the petitioner.



Accordingly, the petitioner, above named, is directed to surrender before the learned Court below within a period of four weeks from today and in the event of surrender by him, he shall be released on anticipatory bail by the Court below upon furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned 9<sup>th</sup> A.D.J.-cum-Special Judge, Excise East Champaran, Motihari, subject to the condition as mentioned under Section 438 (2) of Cr.P.C.

**(Anil Kumar Sinha, J)**

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