

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50701 of 2019

Arising Out of PS. Case No.-801 Year-2019 Thana- AHIYAPUR District- Muzaffarpur

Shivji Sah, S/O Late Anup Lal Sah Resident of village- Patiyasa, P.S.-
Ahiyapur, District- Muzaffarpur.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mahendra Thakur
For the Opposite Party/s : Mr.Amitesh Kumar

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 14-08-2019 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

Petitioner apprehends his arrest in connection with
Ahiyapur P.S. Case No.801 of 2019 for the offence punishable
under Sections 272, 273, 290/34 of the Indian Penal Code and
Section 30(a), 34, 38 and 41 of Bihar Prohibition and Excise
Act, 2016.

The allegation against the petitioner is that police
upon secret information that petitioner was indulged in sale of
illicit liquor proceeded towards the place of occurrence and
from the shop of the petitioner, altogether 39.630 litres of illicit
foreign liquor were recovered. It has further been alleged that
wife of the petitioner has been arrested from the spot and
petitioner succeeded in fleeing away.



Mr. Mahendra Thakur, learned counsel appearing for the petitioner submits that petitioner has falsely been implicated in this case inasmuch as shop from which the liquor has allegedly been recovered does not belong to the petitioner and further from perusal of the seizure list, it appears that recovery of illicit liquor has been made near the Sulabh Shauchalaya and not from the shop. Learned counsel further submits that procedure of search and seizure under Section 100 Cr.P.C. has not been followed by the police, as such, petitioner deserves the privilege of anticipatory bail.

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 as per the allegation in the First Information Report, the illicit liquor has been recovered from the shop of the petitioner, accordingly, in view of Full Bench judgment passed in **Cr. Appeal (SJ) 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 hereby rejected.

(Anil Kumar Sinha, J)

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