

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54282 of 2019**

Arising Out of PS. Case No.-1010 Year-2018 Thana- SAHARSA District-
Saharsa

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GANESH KUMAR, aged about 35 years, male, Son of Ramchandra Singh
Resident of Village- Batraha, Ward No.27, P.S.- Saharsa, District- Saharsa.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Pramod Mishra, Advocate.

For the Opposite Party: APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL ORDER

2 29-08-2019 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner apprehends his arrest for the offences alleged under Sections 30(a), 38(1), 41(1) of the Bihar Prohibition and Excise Act, 2016 (for short 'the Prohibition Act') registered in connection with Special Case No. 455 of 2018 arising out of Saharsa Sadar P.S. Case No. 1010 of 2018.

3. It is submitted that the petitioner has been falsely implicated in connection with recovery of 898.92 litres of English wine. Except his name being dragged in, as the owner of the concerned vehicle, no whisper of any allegation has been made in the F.I.R. nor has the petitioner been connected in any way with the recovered goods in order to attract the ingredients of the offence alleged under the Prohibition Act. It is submitted that mere ownership of a vehicle does not constitute such offence beyond which there is material against the petitioner. 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 persons 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 F.I.R. alleging any offence to have been committed by the petitioner in order to attract the provisions of the said Prohibition Act.

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 Sessions Judge-II cum-Special Judge (Excise), Saharsa in connection with Special Case No. 455 of 2018 arising out of Saharsa Sadar P.S. Case No. 1010 of 2018, 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 cooperate 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) 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.

(Vikash Jain, J)

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