

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.53875 of 2019

Arising Out of PS. Case No.-169 Year-2019 Thana- BARHARA District- Bhojpur

Hare Ram Ray, aged about 55 years, Male son of Late Mahesh Rai Resident
of village- Babura, P.O.- Babura, P.S.- Barahara, District- Bhojpur

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

2 28-08-2019 Heard learned counsel for the petitioner and learned APP
for the State.

2. The petitioner apprehends his arrest for the offences
alleged under Sections 147, 148, 149, 341, 323, 504, 506, 353, 332,
and 333 of the Indian Penal Code and Section 30(c) of the Bihar
Prohibition and Excise Act, 2016 (hereinafter referred to as 'the
Prohibition Act, 2016') registered in connection with Barahara P.S.
Case No. 169 of 2019.

3. It is submitted that in course of settling the dispute
between two groups clashing in connection with election matters, the
police found three persons from the rival group in drunken condition
who were arrested and there is no accusation whatsoever against the
petitioner attracting the ingredients of the offence under the Bihar
Prohibition and Excise Act, 2016.

4. Ordinarily, an anticipatory bail petition in relation to
the offence under the Prohibition 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 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. As regards the offence under penal sections, specific accusation has been made against the aforesaid three persons and no specific overt act has been alleged against the petitioner, who claims clean antecedents.

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 4th Additional Sessions Judge Cum Special Judge Excise Bhojpur, Ara in connection with Barahara P.S. Case No. 169 of 2019, subject to the conditions as laid down under Section 438 (2) of the Code of Criminal Procedure 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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