

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54699 of 2019

Arising Out of PS. Case No.-12 Year-2019 Thana- NTPC KHAIRA District- Aurangabad

Kamakhya Narayan Singh @ Kamakhaya Singh, aged about 55 years (Male)
Son of Late Lakhan Singh, Resident of Village Bara, P.S. Chhatarpur District
Palamu (Jharkhand).

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

2 30-08-2019 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, 2018 (hereinafter referred to as 'the Prohibition Act, 2018') registered in connection with N.T.P.C. Khaira P.S. Case No. 12 of 2019.

3. It is submitted that the petitioner has been falsely implicated in connection with recovery of 300 litres of country made liquor from Scorpio vehicle bearing registration no. JH01AX 6268. Moreover, it is submitted that the petitioner has already sold his vehicle prior to the date of occurrence as noticed by the learned Court below in its earlier order dated 14.06.2019 (Annexure-2) and as such, no offence merely based on the alleged ownership of the vehicle can be said to be made out. The petitioner claims clean antecedents.

4. Ordinarily, an anticipatory bail petition in relation to the offence under the Prohibition Act, 2018 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. 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, 2018.

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 VII-cum-Special Judge (Excise) Aurangabad in connection with N.T.P.C. Khaira P.S. Case No. 12 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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