

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63440 of 2019

Arising Out of PS. Case No.-99 Year-2019 Thana- DHANSOI District- Buxar

DAYA SHANKAR SAH Son of Laxmi Sah Resident of Village- Bavanbandh,
P.S.- Dhansoi, District- Buxar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sada Nand Roy
For the Opposite Party/s : Mr.Anish Chandra

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

2 21-10-2019 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, 2016 (hereinafter referred to as 'the Prohibition Act, 2016') registered in connection with Dhansoi P.S. Case No. 99 of 2019.

3. It is submitted that the petitioner has been falsely implicated in connection with recovery of 122.400 litres of foreign liquor. It is submitted that even on perusal of the FIR, no accusation has been made out against the petitioner in order to attract the offence alleged under the Prohibition Act, as it has merely been stated that the alleged recovery was made from an orchard behind the house of the petitioner without however connecting the place of recovery of the said goods to the petitioner in any manner whatsoever. 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 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 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 Additional Sessions Judge-II-cum-Special Judge, Excise Act, Buxar, in connection with Dhansoi P.S. Case No. 99 of 2019, 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 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.
- iv. 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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