

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65966 of 2019

Arising Out of PS. Case No.-37 Year-2019 Thana- GOVERNMENT OFFICIAL COMP.
District- Araria

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NEERAJ KUMAR Son of Sri Ajay Singh Resident of Village-Ekadha, P.S-
Chewada, District-Sheikhpura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Nilesh Kumar

For the Opposite Party/s : Mr.Ram Bachan Singh

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

4 02-12-2019 Heard learned counsel for the petitioner and learned
APP for the State.

The instant application for anticipatory bail has been
filed by the petitioner apprehending his arrest in connection
with Sadar Circle Excise Case No. 37 of 2019, registered for the
offence punishable under section 30(a) of the Bihar Prohibition
and Excise Act, 2016.

As per allegation made in the F.I.R., 264 litres of
IMFL is said to have been recovered from three accused
persons, namely, Anand Kumar, Rahul Kumar and Shakti
Kumar while others managed to escape. It is further stated that
in course of interrogation accused Shakti Kumar Madhav is said
to have taken the name of the petitioner and also stated that they



were using his vehicle.

It is submitted by learned counsel for the petitioner that neither the petitioner was caught at the place of occurrence nor he is named as a person who escaped. It is further stated that even as per the confessional statement of co-accused Anand Kumar Yadav which is part of the FIR, it would transpire that he has named Shakti Kumar, Rahul Kumar, Deepak Kumar and Shambhu Kumar as his partners. He further stated in his confessional statement that on the vehicle being stopped by the authorities, he along with Shambhu Kumar and Deepak Kumar managed to escape .

It is further stated by the learned counsel for the petitioner that in the facts and circumstances of the case, no offence under the Bihar Prohibition and Excise Act, 2016 is made out and thus rejection of the application for anticipatory bail by the court below as being barred by section 76(2) of the Act is erroneous.

The application for bail is opposed by learned APP for the State.

Having heard the learned counsel for the parties and taking into consideration the facts and circumstances including the fact that neither the petitioner was caught at the place of



occurrence, nor recovery is said to have taken place from his possession and the same has not transpired even in confessional statement of co-accused Anand Kumar, the above named petitioner is directed to surrender in the court below within a period of six weeks from today and in the event of his arrest or surrender, he shall be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned 2nd Additional District and Sessions Judge-cum-Special Judge (Excise), Araria in connection with Sadar Circle Excise Case No. 37 of 2019, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

(Partha Sarthy, J)

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