

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63816 of 2019

Arising Out of PS. Case No.-184 Year-2019 Thana- SIMRI District- Buxar

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BISHNUDEV BHAR Son of Gariban Bhar Resident of Village- Ashapandari,
P.S.- Simri, District- Buxar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Arun Kumar Pandey

For the Opposite Party/s : Mr.Arun Kumar

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL ORDER

2 24-10-2019 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner apprehend his arrest for the offences alleged under Sections 30(a) of the Bihar Prohibition and Excise Act, 2016, as amended in 2018, (hereinafter referred to as 'the Prohibition Act'), registered in connection with Simri P.S. Case No. 184 of 2019.

3. It is submitted that the petitioner has been falsely implicated on mere suspicion, except which there is no objective material to connect the petitioner with the alleged occurrence. The solitary averment in the entire FIR against the petitioner is that secret information had been received that he was violating the provisions of the Prohibition Act. However, no accusation has been made whatsoever on the basis of such secret



information attributing commission of the offence against the petitioner. It is submitted that the petitioner has not been named as the person, who fled away from the spot and in any event mere fleeing away does not constitute any offence under the Prohibition Act. 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 to have been committed by the petitioner in order to attract the provisions of the Prohibition Act.

6. Be that as it may, in the event of petitioner's arrest or surrender before 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 the like amount each to the



satisfaction of learned court of Additional Sessions Judge-IIInd-cum-Special Judge, Excise Act, Buxar in connection with Simri P.S.Case No. 184 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) 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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