

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66510 of 2019

Arising Out of PS. Case No.-82 Year-2019 Thana- TARARI District- Bhojpur

VIMLESH KUMAR YADAV @ VIMLESH SINGH Son of Guru Charan
Singh Resident of Village - Diliya, P.S.- Tarari, District - Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anil Kumar Singh

For the Opposite Party/s : Mr.Md. Iftekhar Mahmood

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

2 06-11-2019 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner apprehends his arrest for the offences alleged under Sections 30(a) of the Bihar Prohibition & Excise Act, 2016, as amended in the year 2018, (for short 'the Prohibition Act') and Sections 147, 148, 149, 341, 323, 307,332,333,337,338,353, 427,225 of the Indian Penal Code registered in connection with Tarari P.S. Case No. 82 of 2019.

3. It is submitted that the petitioner has been falsely implicated on the accusation that search of the house of co-accused Amarjeet Singh by the police officials was obstructed by several named villagers including the petitioner and 30-40 unknown persons. It is submitted that recovery of three cartons of foreign liquor were made in consequence of an earlier search of the house of co-accused Lallu Singh by the police officials whereas nothing was recovered from the house of the petitioner. It is therefore, submitted that the ingredients of the offence alleged under the Prohibition Act are not attracted in so far concerns the petitioner and no offence thereunder is made out.



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. As regards the offence alleged under the Indian Penal Code, it is submitted that brick batting has been alleged against as many as 13 named and 30-40 unknown persons, but the accusations are general and omnibus in nature without any specific overt act attributed individually to the petitioner. The petitioner claims clean antecedents.

7. Be that as it may, in the event of the petitioner 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 IVth Additional Sessions Judge-cum-Special Judge, Excise Act, Bhojpur at Arrah in connection with Tarari P.S. Case No. 82 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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