

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 77790 of 2019**

Arising Out of PS. Case No.-407 Year-2019 Thana- CHAPRA TOWN District- Saran

BALI RAM KUMAR Son of Lalan Ram Resident of Village - Dahiyawa
Tola (Yoganiya Kothi), P.S.- Chapra Town, District - Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Awadhesh Kumar Singh
For the Opposite Party/s : Mr.Nand Kumar

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

3 13-12-2019 Heard learned counsel for the petitioner and the learned
APP for the State.

The petitioner seeks bail in Chapra Town Police Station
(for brevity, *PS*) Case No 407 of 2019 instituted for the offence
under Section(s) 30 (a), 41 (i) (ii) of Bihar Excise and
Prohibition Act.

From a parked Hyundai Car, 112.68 liters of illicit liquor
is said to have been recovered. It is submitted by learned
counsel for the petitioner that having no criminal antecedent, the
petitioner has been implicated in this case without any basis.
From the first information report (for brevity, *FIR*) itself, it is
apparent that at the time the alleged seizure was being
conducted, nobody disclosed details regarding ownership of the



vehicle in question. It is only when the same was verified by the registration number that the name of the owner could be ascertained. On what basis, the petitioner's name has been added in the FIR to be a Driver is not on record. Even if the petitioner was a Driver, whether he was driving the Car on that day is also an issue which has not been determined and in such manner, name of the petitioner has been added in the FIR. The petitioner was not arrested on the spot and there is no recovery whatsoever from his possession. In such circumstances, it is submitted that the offences under the Bihar Prohibition and Excise Act against the petitioner are not made out as there is no ingredients of the said offence made out from the allegations levelled in the FIR. The petitioner, on such allegations, is in custody since 26.08.2019.

The learned APP for the State has opposed the prayer for bail referring to the provisions contained in Section 76 (2) of the Bihar Prohibition and Excise Act.

For the limited purpose of grant of bail, this Court is inclined to accept the submissions of learned counsel for the petitioner.

Considering the aforesaid, let the petitioner, above named, be released on bail on furnishing bail bond of Rs



10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the Additional Sessions Judge XI -cum- Special Judge, Excise, Saran in connection with Chapra Town PS Case No 407 of 2019 subject to the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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