

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 82528 of 2019**

Arising Out of PS. Case No.-302 Year-2019 Thana- GORAUL District- Vaishali

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KAMLESH KUMAR @ KAMLESH RAI S/o Goni Ray @ Goni Rai R/o
village- Chaurahi, P.S.- Goraul (Karthara, O.P.), Distt.- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr Anish Kumar, Advocate

For the Opposite Party/s : Mr Shyam Bihari Singh, APP

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

2 12-12-2019 Heard learned counsel for the petitioner and the learned
APP for the State.

Petitioner apprehends arrest in connection with Goraul
(Kathara OP) Police Station (for brevity, *PS*) Case No 302 of
2019 corresponding to GR No 578 of 2019 instituted for the
offence under Section(s) 30 (a) of Bihar Prohibition and Excise
(Amendment) Act, 2018.

The petitioner apprehends his arrest in the case alleging
recovery of 2.385 liters of Indian made foreign liquor on a
motorcycle parked in front of the betel shop.

Learned counsel for the petitioner submits that neither the
petitioner was present at the shop nor he is the owner of the
shop. Merely because he is owner of the motorcycle in



question, he has been implicated in this case though he was not apprehended with the motorcycle which was in possession of his brother. It is submitted that under the circumstances and having regard to the fact that Section 100 of Criminal Procedure Code has not been complied with while affecting the seizure, no case under the Bihar Prohibition and Excise Act is made out against the petitioner.

The learned APP for the State has opposed the prayer for anticipatory 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 facts, prayer of the petitioner for grant of anticipatory bail is allowed. In the event of surrender/arrest of the petitioner, named above, before the court below, within four (04) weeks from today, he shall be released on anticipatory 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 II -cum- Special Judge, Vaishali at Hajipur in connection with Goraul (Kathara OP) PS Case No 302 of 2019 corresponding to



GR No 578 of 2019 subject to the conditions as laid down under Section 438(2) of Criminal Procedure Code and also 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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