

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78518 of 2019

Arising Out of PS. Case No.-205 Year-2019 Thana- GOVINDGANJ District- East
Champaran

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RAJU RAM, aged about 20 years (Male), S/O Late Dharha Ram Resident of
Village - Mananpur Chamar Toli, Ward No. 2, P.S.- Govindganj, District -
East Champaran (Motihari), Bihar.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Prabhakar Nath Rai

For the Opposite Party/s : Mr. Parmanand Kumar

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

2 03-12-2019 Heard learned counsel for the petitioner as well as
learned A.P.P.

Apprehending his arrest in connection with
Govindganj P.S.Case No. 205/2019 registered under section
30(a) of the Excise Act, the petitioner Raju Ram has prayed for
anticipatory bail in the instant petition.

In sum and substance the prosecution is on account of
recovery of 10 litres of country made wine from the house of the
petitioner having been seized in presence of Vishwanath Ram
and Sonu Ram.

Learned counsel for the petitioner has submitted that
the whole prosecution happens to be suspicious one in the
background of the fact that there happens to be specific



disclosure at the end of the informant, a police official, that he received information at about 10 A.M. but the seizure list speaks the time of conduction of raid and recovery on 3.7.2019 at about 17.15 P.M. The delay in between casts doubt over genuineness, authenticity over the prosecution version. In likewise manner, it has also been submitted that there happens to be specific disclosure that when the police vehicle came, the drunkard, who were sipping the wine, ran therefrom but no seizure is there with regard to glass, if any, bottle, if any, containing the wine and so, that of part goes away, then in that circumstance indulgence of the petitioner speaks with some ulterior motive. So submitted that it is a fit case wherein the petitioner is entitled for anticipatory bail.

Learned A.P.P. opposed the same and submitted that the seizure list corroborates recovery from the house of the petitioner who managed to escape seeing the police jeep alongwith other drunkard.

During course of consideration of maintainability of anticipatory bail under Excise Act, the Full Bench considered the matter and perceived the event of having vires subjudiced before the Apex Court whereupon laid down, for the time being, a middle path allowing scrutiny of the matter and tracing out whether a case under the Excise Act is



made out or not. In case, the same is not made out then, in that circumstance, it has been held that the anticipatory bail petition will be maintainable otherwise not.

In the background of the aforesaid settled principle when the facts of the case have been gone through, it is evident that there happens to be recovery of country made wine from the house of the petitioner and that being so, the petition for anticipatory bail is found non-maintainable and is accordingly rejected.

(Aditya Kumar Trivedi, J)

Surendra/-

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