

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.80314 of 2018

Arising Out of PS. Case No.-348 Year-2018 Thana- SAHEBGANJ District- Muzaffarpur

Nageshwar Prasad Son of Late Kanhai Sah, Resident of Village-Navanagar
Nizamat, Police Station- Sahebganj, District- Muzaffarpur.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Upendra Kumar Chaubey
For the Opposite Party/s : Mr.Sri Amit Kumar Rakesh

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL ORDER

2 24-01-2019 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

This application for anticipatory bail, arises out of Sahabganj Police Station Case No. 348 of 2018, disclosing offences punishable under Sections 272, 273 of the Indian Penal Code and Section 30(a), 41 of the Bihar Prohibition and Excise Act, 2016.

Learned counsel, appearing on behalf of the petitioner, submits that so far as this petitioner is concerned, no offence under Sections 30(a) and 41 of the Bihar Prohibition and Excise Act, 2016 is made out, even if the case of the prosecution, as narrated in the First Information Report, is treated to be correct.



It is the case of the prosecution that, based on a secret information, the Police had raided and in that course seized a Bolero Vehicle parked in a market, from which illicit alcohol was being uploaded. In course of the raid, the Police found two motorcycles parked near the said Bolero Vehicle. The petitioner is the owner of one of the motorcycle.

Learned counsel, appearing on behalf of the petitioner, has submitted that there is no allegation against the petitioner in the First Information Report that the said motorcycle was being used in any manner for promoting illicit trade of liquor. Merely because that the motorcycle was parked near the Bolero Vehicle, he has been implicated.

I find substance in the submission made on behalf of the petitioner that based on the First Information Report, it cannot be said that an offence under the provisions of the Bihar Prohibition and Excise Act is made out against this petitioner.

Considering the nature of allegation made in the First Information Report, this application is allowed.

Let the petitioner, above-named, in the event of his arrest or surrender before the Court below within six weeks, 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 the learned Special Judge, Excise, Muzaffarpur in connection with Sahabganj Police Station Case No. 348 of 2018, subject to the condition laid down under Section 438(2) of the Code of Criminal Procedure.

This is subject to the condition that the petitioner shall present himself before the Police/Court, as the case may be, as and when required and in the event of failure on his part to appear before the Court on two consecutive occasions, his bail bonds shall be liable to be cancelled.

(Chakradhari Sharan Singh, J)

Ashish/-

U		T	
---	--	---	--

