

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.82275 of 2019

Arising Out of PS. Case No.-234 Year-2019 Thana- BIBHUTIPUR District- Samastipur

SURENDRA RAY @ SURENDRA PRASAD RAY @ SURENDRA PRASAD YADAV Son of Late Ram Sevak Ray @ Ramsevak Yadav Resident of Village - Sakra, Mahamadpur, P.S.- Vibhutipur, Distt.- Samastipur.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rabindra Kumar Priyadarshi

For the Opposite Party/s : Mr.Akbar Ali

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

2 12-12-2019 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 (for short 'the Prohibition Act') registered in connection with Vibhutipur P.S. Case No. 234 of 2019.

3. It is submitted that the petitioner has been falsely implicated in connection with recovery of 3.705 litres of foreign liquor from a bush by the side of the wall of the house of the petitioner's father Ram Sevak Ray. The petitioner has not been named in the FIR, but the learned Special Judge has treated the petitioner as the owner of the house as the petitioner's father had already died. It is submitted that in any event no recovery has been made from the house rather from the bush. Moreover, apart from the recovery from the bush there is nothing in the FIR to connect the petitioner or his deceased father with



the recovered goods. The petitioner claims clean antecedents.

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. Be that as it may, in the event of the petitioner's 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 Additional District Judge-II-cum-Special Judge, Excise, Samastipur in connection with Vibhutipur P.S. Case No. 234 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. 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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