

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1787 of 2020

Arising Out of PS. Case No.-325 Year-2019 Thana- GOVERNMENT OFFICIAL COMP.
District- Katihar

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Suman Kumar Yadav @ Suman Kumar Mandal, S/o Rampal Yadav R/o
Buddhuchak, Ward No.7, P.S.- Sahayak, Distt- Katihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Singh
For the Opposite Party/s : Mr. Ram Bachan Singh

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**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**

ORAL ORDER

2 28-02-2020 Heard learned counsel appearing for the petitioner as
well as learned Additional Public Prosecutor for the State.

2. Petitioner apprehends his arrest in connection with
C.I. Case No.325 of 2019 registered for the offences punishable
under Section 30(a) of the Bihar Prohibition and Excise Act,
2016.

3. At the very outset, learned counsel appearing for
the petitioner submits that the alleged recovery has been made
from the house of the co-accused Vijay Kumar Yadav, but the
Excise Officials made the petitioner accused in this case.

4. Learned counsel for the petitioner further submits
that no doubt, Section 76(2) of the Bihar Prohibition and Excise
Act, 2018 prohibits to entertain petition under Section 438 of



the Cr.P.C., but the fact of the present case goes to show that no case under the provisions of Bihar Prohibition and Excise Act, 2018 is made out against the petitioner and, therefore, in the present case, petition under Section 438 of the Cr.P.C. is maintainable.

5. Considering the aforesaid facts and circumstances of the case as well as submissions of the parties, this anticipatory bail petition is allowed and it is ordered that petitioner, in the event of his arrest/ surrender within six weeks from the date of receipt of this order to the Court concerned, shall be released on bail on furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-II-cum-Special Judge, Katihar in connection with C.I. Case No.325 of 2019, subject to conditions as laid down under Section 438(2) of the Cr.P.C.

(Hemant Kumar Srivastava, J)

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