

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4930 of 2020

Arising Out of PS. Case No.-113 Year-2019 Thana- GOVERNMENT OFFICIAL COMP.
District- Buxar

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Samir Kumar Choubey @ Mintu Choubey, Son of Sri Vaikunth Choubey
Resident of Village - Sikraul, P.S. - Rajpur, District - Buxar.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Rajnish Kumar Choubey

For the Opposite Party/s : Mr.Kanhaiya Kishore- APP-100

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

ORAL ORDER

2 29-02-2020 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
Case No.113 (O) of 2019 registered for the offences punishable
under Section 30(a) of the Bihar Prohibition and Excise
(Amendment) Act, 2018.

3. The alleged recovery is said to have been made
from a bush and at the time of recovery of liquor, no one
disclosed the name of the petitioner and furthermore, the present
case was lodged against unknown person. However, the
impugned order goes to show that subsequently, some persons
named the petitioner.

4. Submission on behalf of the petitioner is that
prosecution report does not disclose any offence of Excise Act
against the petitioner, but subsequently, on the basis of



statements of enemies of the petitioner, he has been made accused in this case.

5. No doubt, Section 76(2) of the Bihar Prohibition and Excise Act, 2016 bars to entertain petition filed under Section 438 of the Cr.P.C., but in the present case, from the very first prosecution report, no prima facie case of Excise Act appears to have been made out against the petitioner.

6. 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, Excise, Buxar in connection with Case No.113 (O) 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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