

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5006 of 2020

Arising Out of PS. Case No.-263 Year-2019 Thana- RAJPUR District- Buxar

Saroj Kumar Chouhan, S/O Late Lalbabu Chouhan R/o Village - Karaila, P.S.
- Rajpur, District - Buxar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Digvijay Kumar Ojha
For the Opposite Party/s : Mr.Khurshid Anwar

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

ORAL ORDER

2 02-03-2020 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
Rajpur P. S. Case No.263 of 2019 registered for the offences
punishable under Section 30(a) of the Bihar Prohibition and
Excise Act, 2018.

3. The recovery of illicit liquor was made near a canal
and the informant claimed that petitioner was seen fleeing from
the place of occurrence and the name of the petitioner was
disclosed by the villagers.

4. Submission on behalf of the petitioner is that
admittedly, nothing was recovered from conscious possession of
the petitioner and except police officials, not the name of a



single witness of aforesaid village has been disclosed by the informant in written report.

5. He further submits that petitioner does not have any criminal antecedent and as a matter of fact, no case under the provisions of the Bihar Prohibition and Excise Act, 2018 is made out against the petitioner.

6. It is true that Section 76(2) of the above stated Act prohibits to entertain petition filed under Section 438 of the Cr.P.C. in the cases registered under the Bihar Prohibition and Excise Act, 2018, but it has been held by a Full Bench of this Court that Section 76(2) of the aforesaid Excise Act is applicable only when offences of the Excise Act is made out.

7. In view of the aforesaid submissions, prima facie in the present case, no case of the Excise Act appears to be made out against the petitioner.

8. Accordingly, 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-2nd-cum-Special Judge, Excise,



Buxar in connection with Rajpur P. S. Case No.263 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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