

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6217 of 2020

Arising Out of PS. Case No.-265 Year-2019 Thana- GURUA District- Gaya

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BALBIR KUNWAR @ BALBIR PRASAD Son of Late Nageshwar Prasad
Resident of Village - Sagahi, P.S.- Gurua, Distt - Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Rakesh Kumar Sharma

For the Opposite Party/s : Mrs. (Dr.) Indihar Kumari

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 11-06-2020 Heard learned counsel for the parties.

This application for anticipatory bail arises out of Gurua P.S. Case No. 265 of 2019, disclosing the offence under Sections 30(d) & 32(2) of the Bihar Excise (Amendment) Act, 2018.

It is the case of the prosecution that the police had received a confidential information that the petitioner was engaged in illegal business of preparation of *Mahua* wine. Based on the said confidential information, the police are said to have conducted raid in a room of 'Sar Sewa Farm Centre, Sagahi' leading to recovery of 450 kg of *Mahua* flower. The petitioner runs a grocery shop, which is mentioned in the FIR itself.



Learned counsel appearing on behalf of the petitioner has submitted that even if the case of the prosecution, as disclosed in the FIR, is treated to be correct on its face value, no offence can be said to be made out against the petitioner, inasmuch as, the confidential information regarding petitioner's involvement is the only basis for his implication in the present case. The place from where the recovery was made, was not in the petitioner's occupation. There is no recovery from the petitioner's shop. He accordingly contends that bar under Section 76(2) of the Bihar Prohibition and Excise Act, 2016 will have no application and this anticipatory bail application should be maintained since no offence under the provisions of the Act against the petitioner is made out.

For the purpose of present application, I find substance in the submissions made on behalf of the petitioner. This application is accordingly allowed. Let the petitioner, above-named, in the event of his arrest/surrender within six weeks from today in the court below, 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 Special Excise Judge, Gaya in Gurua P.S. Case No. 265 of 2019, subject to the condition as 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)

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