

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5992 of 2020**

Arising Out of PS. Case No.-565 Year-2019 Thana- MAJHAULIA District-
West Champaran

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MUNNA PASWAN @ DILIP PASWAN Son of Late Ramnath Paswan
Resident of Village - Ahwar Shekh, Paswan Tola, P.S.- Majhauiliya, District -
West Champaran. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar, Advocate.

For the Opposite Party/s: Mr. Md. Shakir Ahmad, APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL ORDER

2 28-02-2020

Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner apprehends his arrest for the offences alleged under Sections 353/506 of the Indian Penal Code and Section 45 of the Bihar Prohibition and Excise Act, 2016 (for short 'the Prohibition Act') registered in connection with Maqjhauliya P.S. Case No. 565 of 2019.

3. It is submitted that the petitioner has been falsely implicated and even on perusal of the F.I.R., no offence whatsoever is made out against the petitioner under the Prohibition Act in the absence of any objective material to connect the petitioner with the incriminating goods nor the place of recovery. 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 persons 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 F.I.R. alleging any offence to have been committed by the petitioner in order to attract the provisions of the said Prohibition Act.

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 Special Judge, Excise, Bettiah, West Champaran in connection with Majhauriya P.S. Case No. 565 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 cooperate 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) That 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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