

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6188 of 2020**

Arising Out of PS. Case No.-304 Year-2019 Thana- SASARAM MUFFSIL
District- Rohtas

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UPENDRA SINGH Son of Dharmdas Singh Resident of Village - Barayabag,
P.S.- Sasaram (M), District - Rohtas.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr. Rajani Kant Singh, Advocate.

For the Opposite Party/s: Mr. Surendra Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL ORDER

2 03-03-2020

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

2. The petitioner apprehends his arrest for the offences alleged under Sections 279, 337, 338, 353 of the Indian Penal Code and Sections 37(b)(c) of the Bihar Prohibition and Excise Act, 2016 as amended in 2018 (for short 'the Prohibition Act') registered in connection with Sasaram (M) P.S. Case No. 304 of 2019.

3. It is submitted that the petitioner has been falsely implicated on the accusation that as owner he drove away with his Haiwa Truck which has met to an accident. It is submitted that even from the F.I.R., allegation has been made against the driver of the vehicle co-accused Lala Chaudhary who is said to have been in drunken condition. It is submitted that mere driving away the vehicle does not constitute an offence under the Prohibition Act. The petitioner is accused in three prior cases in which he is on bail.



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 2nd Additional District and Sessions Judge cum-Special Judge, Excise, Rohtas at Sasaram in connection with Sasaram (M) P.S. Case No. 304 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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