

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8442 of 2020

Arising Out of PS. Case No.-254 Year-2019 Thana- MOTIHARI MUFASIL District- East
Champaran

RAJESH MUKHIYA S/o Gandhi Mukhiya R/o village- Basatpur, Bintoli,
P.S.- Muffasil Motihari, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bal Govind Sharma
For the Opposite Party/s : Ms.Sangeeta Sharma

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 02-03-2020 Heard learned counsel for the petitioner as well as
learned Addl. Public Prosecutor for the State.

Petitioner is apprehending his arrest in Mufassil P.S.
Case no. 254/2019 registered under section 30(a) of the Bihar
Prohibition and Excise Act.

On secret information, police has apprehended
motorcycle on which it is alleged that the petitioner was pillion
rider and fled away. The apprehended person, Mohan Mukhiya
disclosed the name of the petitioner. 40 liters spirit is alleged to
have been recovered.

Counsel for the petitioner submits that he has no
criminal antecedent and merely because disclosure of his name
by said Mohan Mukhiya, petitioner has been implicated in this



case.

Even as per prosecution case, petitioner was not apprehended at the place nor there is any recovery attributed to the petitioner. In such circumstance, no case whatsoever has been made out against the petitioner under Bihar Prohibition and Excise Act.

Learned A.P.P. opposes the prayer by referring to section 76(2) of the Act.

Considering the rival submissions for limited purpose of anticipatory bail, this court is inclined to accept the submission of counsel for the petitioner. Application is allowed.

In the event of arrest/ surrender within four weeks from the date of receipt of a copy of the order in the court below, petitioner shall be released on bail on furnishing bail bonds of Rs 10,000/- with two sureties of the like amount each to the satisfaction of the Addl. Sessions Judge IX-cum- Special Judge Excise, Motihari, East Champaran in Mufassil P.S. Case no. 254/2019 subject to the condition under section 438(2) Cr.P.C and other conditions.

(1) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also



undertake to inform the Court if there is any change in the address of the petitioner.

(2) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail will be liable to be cancelled.

(Madhuresh Prasad, J)

s.hassan/-

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