

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14639 of 2020

Arising Out of PS. Case No.-308 Year-2019 Thana- BAKHARI District- Begusarai

Yogendra Mahto @ Yogendra Ray @ Chano Mahto, Male, aged about 67 years, Son of Late Asharfi Mahto, Resident of Village Makhachak, Ward No.6, P.S. Bakhri, District Begusarai.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ravi Shankar Sahay, Advocate
For the Opposite Party/s : Mr. Lakshmi Kant Sharma, APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

4 07-09-2020 Heard Mr. Ravi Shankar Sahay, learned counsel for the petitioner and Mr. Lakshmi Kant Sharma, the learned Additional P.P. through video conferencing.

The petitioner apprehends his arrest in Bakhri P.S. Case No.308 of 2019, registered under Section 30(a) of the Bihar Prohibition and Excise Act.

The informant after having received secret information that all the accused persons named in the FIR including the petitioner brought a truck loaded with wine and they were unloading the liquor on a pick-up van. The informant reached at the cattle shed of Bhushan Mahto, the son of the petitioner, but after seeing the police, the accused persons started fleeing away. The Chowkidar identified the accused



persons while they were fleeing away. On search, from bolero pick-up van, 10 cartons of Royal Stag wine (240 bottles) each containing 375 ml. were recovered. Near the cattle shed of Bhushan Mahto, 20 cartons of Royal Stag wine (480 bottles) each containing 375 ml. were recovered.

Learned counsel for the petitioner submits that the petitioner is of course named in the FIR but nothing has been recovered from possession of the petitioner. 351 litres of Indian made foreign liquor is said to have been recovered from bolero vehicle and the cattle shed. The petitioner is the owner of pick-up van but his son Bhushan Mahto had parked the van and he was driving the vehicle. It is further submitted that the petitioner was neither apprehended on the spot and nothing has been recovered from possession of the petitioner. The recovery was not made in accordance with Section 100 of the Code of Criminal Procedure, therefore, the petitioner deserves anticipatory bail.

The learned Additional P.P. opposed the prayer for anticipatory bail.

Perused the FIR and the seizure list. The police got secret information that the petitioner, his son and other accused persons were unloading the liquor from bolero pick-up van.



When the police went to raid the cattle shed, the accused persons managed to flee away but on search huge quantity of Indian made foreign liquor was recovered from the vehicle of the petitioner. It appears on the fact of it and from the allegations made in the FIR that the petitioner and his son are involved in transporting liquor from one place to another through their vehicle bearing Registration No.BR09R 1730.

Taking into consideration the facts aforesaid, I am not inclined to enlarge the petitioner on anticipatory bail. Accordingly, the prayer for anticipatory bail of the petitioner is rejected.

(Prabhat Kumar Jha, J)

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