

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20227 of 2020

Arising Out of PS. Case No.-291 Year-2019 Thana- UCHKAGAON District- Gopalganj

Mustaque Saifi Son of Ishaque Saifi @ Ishaque Miyan Resident of Village-
Dahibhata, P.S.- Uchakagaon, District- Gopalganj.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Upendra Yadav

For the Opposite Party/s : Mr. Ram Priya Sharan Singh

**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**

ORAL ORDER

2 20-08-2020 The office has reported that L.T.I. at vakalatnama has not been identified, certified copy of corrected order has not been filed and relationship of deponent with petitioner requires correction.

Learned counsel appearing for the petitioner submits that due to clerical error, L.T.I. of petitioner at vakalatnama has been left to be identified and so far as certified copy of corrected order is concerned, the same is irrelevant as at the margin of impugned order, the learned court below has clearly mentioned that name of police station has been corrected vide order dated 03.02.2020. Learned counsel of the petitioner further submits that relationship of deponent with petitioner has been given in the affidavit by making correction but unfortunately, the



aforesaid correction was not signed by counsel of the petitioner.

Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the State through video conferencing.

Petitioner apprehends his arrest in connection with Uchakagaon P.S. Case No. 291 of 2019 registered for the offence punishable under Section 30(a) of Bihar Prohibition and Excise Amendment Act, 2018.

Learned counsel of the petitioner submits that in the present case, the alleged recovery was made from a lonely field and nothing was recovered either from conscious possession or from house of the petitioner. He further submits that informant has himself admitted in his written report that persons, who disclosed the name of petitioner, did not disclose their name before the investigating officer. Learned counsel of the petitioner further submits that the aforesaid facts clearly go to show that no case under Bihar Prohibition of Excise Act is made out against the petitioner.

On the other hand, learned Additional Public Prosecutor opposed the prayer submitting that name of petitioner was disclosed by the villagers at the place of occurrence and, therefore, this petition filed under Section 438



of the Cr.P.C. is not maintainable.

The defects, as pointed out by the office, be ignored.

Considering this aspect of the matter that nothing has been recovered either from conscious possession or from the house of the petitioner and the alleged recovery is said to have been made from a lonely place and also taking note of this fact that persons, who disclosed the name of petitioner before the investigating officer, did not disclosed their name, this anticipatory bail petition is allowed and it is ordered that petitioner, in the event of his arrest/ surrender within eight weeks from today, shall 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 Additional Sessions Judge-II cum Special Judge, Excise, Gopalganj in Uchakagaon P.S. Case No. 291 of 2019, subject to conditions as laid down under Section 438(2) of the Cr.P.C.

(Hemant Kumar Srivastava, J)

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