

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17589 of 2020

Arising Out of PS. Case No.-9 Year-2020 Thana- MITHANPURA District- Muzaffarpur

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Aatesh Kumar @ Sarkar (Male) aged about 35 years, S/o Awadhesh Paswan
@ Avdhesh Paswan, R/o Village - Kanholi Math Paswan Tola P.S.-
Mithanpura, District - Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Udit Narayan Singh

For the Opposite Party/s : Mr. Yogendra Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 15-12-2020 Heard Mr. Udit Narayan Singh, learned counsel for

the petitioner and Mr. Yogendra Kumar Singh, learned

Additional Public Prosecutor appearing for the State through

video conferencing.

Petitioner apprehends his arrest in connection with

Mithanpura P.S. Case No. 09 of 2020 registered for the offence

punishable under Section 414 of the I.P.C. and Section 30(a) /

32 (ii) / 41 (i) of the Bihar Prohibition and Excise (Amendment)

Act, 2018.

The allegation as per the First Information Report is

that the Police on the basis of secret information that some

accused persons have brought the consignment of illicit foreign

liquor by a Pick Up Van near the house of Randhir Kumar and

were selling it, proceeded towards the place of occurrence and

upon seeing the police party the accused persons started fleeing

away. However, the Police arrested one Monu Kumar who

informed that a Pick Up Van No. BR31GA9995 is loaded with



illicit liquor and one motorcycle standing near the same was also loaded with illicit liquor and he along with other accused persons including the petitioner used to sale illicit foreign liquor. The Police has recovered 192.600 liters of illicit foreign liquor from the aforesaid vehicles.

Learned counsel for the petitioner submits that the petitioner has not committed any offence in the manner alleged and no illicit liquor has been recovered from his conscious possession or from the premises belonging to him. Learned counsel referring to paragraph no. 7 of the petition submits that neither the Pick-Up Van nor the motorcycle belongs to the petitioner and he has no concern with the seized liquor and his name has allegedly been disclosed by the arrested co-accused / Monu Kumar. Learned counsel further submits that the petitioner has falsely been implicated in this case with oblique motive only due to the fact that petitioner has criminal antecedent and similar nature of cases are pending against him. Accordingly, the submission of learned counsel for the petitioner is that from perusal of the First Information Report no prima facie case under the Excise Act is made out against the petitioner.

Having regard to the submissions made by the parties



and taking into consideration the materials available on record and the fact petitioner is not the owner of the vehicles from which illicit liquor has been recovered, I am inclined to grant anticipatory bail to the petitioner.

Accordingly, in the event of arrest or surrender before the court below within six weeks from today, petitioner, above named, shall be released on anticipatory bail on furnishing bail bond of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge (Excise), Muzaffarpur / court concerned in connection with Mithanpura P.S. Case No. 09 of 2020, subject to the condition as laid down under Section 438 (2) of the Code Of Criminal Procedure.

It is made clear that at the time of furnishing bail bonds all the parties shall follow the guidelines regarding social distancing.

(Anil Kumar Sinha, J)

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