

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20216 of 2020

Arising Out of PS. Case No.-670 Year-2018 Thana- NAWADA District- Nawada

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Guddu Kumar, S/o Deo Mahto @ Dev Nandan Yadav, Resident of Village-
Nehaluchak, P.S.- Nawadah Town, Distt- Nawadah

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Birendra Kumar- Advocate

For the Opposite Party/s : Mrs. Pushpa Sinha- A.P.P.

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

ORAL ORDER

4 22-12-2020 Heard learned counsel appearing for the petitioner as

well as learned Additional Public Prosecutor appearing for the

State through video conferencing.

Petitioner apprehends his arrest in connection with

Nawadah P. S. Case No.670 of 2018 registered for the offence

punishable under Section 30(a) of Bihar Prohibition and Excise

Act.

According to prosecution case, confidential sources

gave information to police that petitioner had stored country-

made liquor in a government school and having got the

aforesaid information, informant went there and seized near-

about 520 litres country-made liquor from a water tank of the

school.



Learned counsel appearing for the petitioner submits that petitioner does not have any criminal antecedent, but due to typing mistake at Para-3 of the petition, the word 'not' has been typed, which should be deemed to be deleted from Para-3 of the petition.

Learned counsel for the petitioner submits that no offence under the provisions of Excise Act is made out against the petitioner because neither the seized country-made liquor was recovered from the possession of the petitioner nor anything was recovered from his house. Learned counsel for the petitioner further submits that in course of investigation, not a single prosecution witness came forward to say that the seized liquor belonged to petitioner and only on the basis of confidential information, petitioner has been made accused in this case. He further submits that in the above stated circumstance, this anticipatory bail petition is maintainable.

On the other hand, learned Additional Public Prosecutor opposed the prayer pointing out that anticipatory bail petition is not maintainable in the offence of Bihar Prohibition and Excise Act.

The perusal of case diary goes to show that not a single person came forward to say that it was petitioner, who



had stored seized liquor in the premises of school. Moreover, admittedly, the first information report goes to show that nothing was recovered from conscious possession of the petitioner and his name has been dragged in this case on the basis of confidential information.

Considering the aforesaid facts and circumstances of the case as well as submissions of the parties, in my view, this anticipatory bail petition is maintainable because prima facie, no offence under the Bihar Prohibition and Excise Act is made out against the petitioner and, accordingly, it is ordered that petitioner, in the event of his arrest/ surrender within six weeks from the date of receipt of this order to the Court concerned, 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, Nawada in connection with Nawada Town P. S. Case No.670 of 2018, subject to conditions as laid down under Section 438(2) of the Cr.P.C.

(Hemant Kumar Srivastava, J)

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