

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20172 of 2020

Arising Out of PS. Case No.-371 Year-2018 Thana- GOVERNMENT OFFICIAL COMP.
District- Samastipur

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Amarjeet Sahni Son of Chandeshwar Sahni Resident of Village - Nathudwar
Char Tol, P.S.- Khanpur, District - Samastipur.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr. Binod Kumar Sinha, Adv.
For the Opposite Party/s : Mr. Ahmad Ali, A.P.P.

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

ORAL ORDER

2 18-08-2020 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

Excise Case No. 371 of 2018 registered for the offences

punishable under Sections 30(A) & (D) of Bihar Prohibition and

Excise Act, 2018.

The alleged recovery has been made from near a tree

but the learned Special Judge has committed error on record

while mentioning in the impugned order that alleged recovery

was made from the house of the petitioner.

Submission on behalf of the petitioner is that nothing

was recovered either from conscious possession or from house



of the petitioner and petitioner does not have any criminal antecedent. He further submits that no doubt, Section 76(2) of Bihar Prohibition and Excise Act prohibits to entertain petition under Section 438 of the Cr.P.C. but in the present case, no offence of Excise Act is made out against the petitioner and, therefore, in the aforesaid circumstance, petition under Section 438 of the Cr.P.C. is maintainable.

Considering the aforesaid facts and circumstances as well as submissions of the parties, 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 2nd Additional Sessions Judge cum Special Judge, Excise Act, Samastipur in Excise Case No. 371 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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