

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79374 of 2019

Arising Out of PS. Case No.-446 Year-2019 Thana- MAHUA District- Vaishali

MANISH RAY, aged about 30 years (Male), S/o Satya Narayan Ray R/o
village- Sharma, P.S.- Mahua, District- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Barun Kumar Choudhary

For the Opposite Party/s : Mr. Humayou Ahmad Khan

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

3 16-06-2020 Heard learned counsel for the petitioner as well as
learned A.P.P.

On getting confidential information police reached at the house of Chandan Sah where they have seen one container (truck) parked and some persons were engaged in unloading the cartoon, who seeing the police escaped. The Maruti car wherein cartoons were being kept, was searched out alongwith the container and foreign wine (Indian origin) in huge quantity as per seizure list have been seized. It has also been disclosed that the local Chaukidar alongwith others have identified the culprits as Ramesh Rai, Sheomangal Rai, Manish Rai, Vijay Chaudhary, Chandan Kumar. Two more persons were also associated with them whom they did not identify.

Learned counsel for the petitioner has submitted that grant of anticipatory bail relating to excise case has been



considered by the Full Bench of this Court in the case of **Ram Vinay Yadav v. the State of Bihar**, reported in 2019(2) PLJR 1089, wherein considering the principle decided by the Apex Court relating to SC, ST (POA) Act and considered by the Division Bench in the case of **Bisheshwar Mishra v. the State of Bihar**, reported in 2016(4) PLJR 1058, and further the vires of Excise Act being subjudiced before the Apex Court, the intermediary effect has been regularized as, tracing out prima facie case and if the same principle is applied in consonance with the facts of the case, it is apparent that no case against the petitioner could be because of the fact that the identification of the petitioner comes under controversy coupled with the fact that there happens to be complete absence of material with regard to connectivity of the petitioner either with the container or Maruti Van as is evident from the case diary. So, it is a fit case wherein the petitioner could be released on an anticipatory bail. Apart from this, it has also been submitted that the petitioner has got no criminal antecedent and so, there would not have been any occasion for the Chaukidar or others to claim identification.

Learned A.P.P. opposed the same and submitted that recovery is sufficient to substantiate the case coming within the purview of the Excise Act though, the petitioner may have some



sort of upper hand on account of improbability relating to identification.

Regard being had to the facts and circumstances of the case, let the petitioner Manish Ray, in the event of his arrest or surrender before the court below within four weeks from today, be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Addl. Sessions Judge II cum Excise Court, Hajipur, Vaishali in Mahua P.S.Case No. 446/2019, subject to the conditions as laid down under section 438(2) Cr.P.C.

(Aditya Kumar Trivedi, J)

Surendra/-

U			
---	--	--	--

