

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.86729 of 2019

Arising Out of PS. Case No.-409 Year-2019 Thana- BODHGAYA District- Gaya

Raj Kumar Yadav, aged about 50 years, male, Son of Late Kameshwar Yadav
@ Buttu Yadav Resident of Village - Jodh Bigha, P.S.- Barachatti, District-
Gaya.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Md. Javed Jafar Khan

For the Opposite Party/s : Mr. Ramesh Chandra

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

ORAL ORDER

2 14-02-2020 Heard learned counsel appearing for the petitioner as
well as learned Additional Public Prosecutor for the State.

2. Petitioner apprehends his arrest in connection with
Bodh Gaya P. S. Case No.409 of 2019 registered for the offence
punishable under Section 30(a) of the Bihar Prohibition and
Excise Act, 2016.

3. No doubt, Section 76(2) of the Bihar Prohibition
and Excise Act, 2016 bars to entertain petition under Section
438 of the Cr.P.C., but if the first information report does not
constitute any offence against a particular person, then in that
circumstance, petition under Section 438 of the Cr.P.C. is
maintainable.

4. In the present case, it is admitted case of the



prosecution that one Sikandar Kumar was apprehended while he was going on a motorcycle and four bottles containing three litres Indian made foreign liquor were recovered from the dicky of the aforesaid motorcycle. The petitioner happens to be owner of the said motorcycle.

5. Learned counsel appearing for the petitioner submits that aforesaid Sikandar Kumar is son-in-law of the petitioner and as a matter of fact, the petitioner was not aware of this fact that what was being carried by the aforesaid Sikandar Kumar on the said motorcycle of the petitioner.

6. Taking note of the facts and circumstances of the case, I am of the opinion that prima facie no case for violation of provision of the Bihar Prohibition and Excise Act, 2016 is made out against the petitioner.

7. Considering the aforesaid facts and circumstances of the case 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 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 Special Excise Judge, Gaya in connection



with Bodh Gaya P. S. Case No.409 of 2019, subject to
conditions as laid down under Section 438(2) of the Cr.P.C.

(Hemant Kumar Srivastava, J)

vikash

U		T	
---	--	---	--

