

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26508 of 2023

Arising Out of PS. Case No.-181 Year-2023 Thana- GOVERNMENT OFFICIAL COMP.
District- Samastipur

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AMRESH KUMAR MAHTO Son of Ram Sundar Mahto Resident of village-
Sijauli Chak, Bahauddin, P.S.-Dalasingsarai, District-Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Surya Narayan Roy, Advocate
For the Opposite Party/s : Mr. Akshay Lal Pandit, APP

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 16-05-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner apprehends his arrest in a case
registered for the offences punishable under Section 30(a) of the
Bihar Excise Act.

Learned counsel for the petitioner submits that the
petitioner is a person with clean antecedent and allegation is of
recovery of 11 liters of liquor from Sijauli Ward No. 5.

Learned counsel for the petitioner submits that the
petitioner was not arrested from the spot as such nothing was
recovered from his conscious possession, and he came to be
implicated based on confessional statement of Sangeeta Kumari
in police custody which does not have any evidentiary value,



when admittedly the petitioner is a person with clean antecedent.

The Court fails to appreciate that as to why the learned Trial Court while rejecting the anticipatory bail application of the petitioner did not record the facts of the case and the defence of the petitioner, the order rejecting anticipatory bail application is mechanical.

The Court, for the present, does not comment on the order, but then renders an advice that from next time, the learned Trial Court should consider the facts of the case in order to appreciate whether bar of Section 76(2) of the Act is applicable in the facts of the case or not.

Let this order be communicated to the learned District & Sessions Judge, Samastipur for perusal of the concerned Court.

Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner.

Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 1,000/- (Rupees



One Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Excise P.S. Case No. 181 of 2023 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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