

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57425 of 2019

Arising Out of PS. Case No.-157 Year-2018 Thana- BAKHARI District- Begusarai

RAJEEV RAJAK Son of Late Fagu Rajak Resident of Village- Hari Singh,
Darha, P.S.- Bakhari, District- Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sandip Kumar Gautam
For the Opposite Party/s : Mr.Pushpa Sinha.1

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 27-11-2019 Heard the learned counsel for the petitioner and
the learned A.P.P. for the State.

This is an application for grant of anticipatory bail
in connection with Bakhari PS case no. 157 of 2018 registered
for the offences punishable under Section 30(a) of Bihar
Prohibition and Excise Act, 2016.

The allegation is regarding the police having
received secret information that the accused persons have
hidden huge quantity of illicit liquor in the “*Bhuskhar* (hey
house)” of the petitioner herein and when the police party had
reached the said place, huge quantity of illicit liquor was
recovered.

The learned counsel for the petitioner has
submitted that the petitioner is innocent, is having a clean



antecedent and has got no complicity in the alleged recovery of illicit liquor, inasmuch the said hey-house is also being used by other agnates of the petitioner and he is not the exclusive owner of the said hey-house, as has been averred in paragraph no. 9 of the present petition.

I have heard the learned counsel for the parties and perused the materials on record and I find that since the ownership of the hey-house is not disputed by the petitioner herein and ultimately, recovery of illicit liquor has been made from the hey-house of the petitioner, it cannot be said that no offence is made out under the provisions of the Bihar Prohibition and Excise Act, 2016 and since Section 76(2) of the said Act, 2016 bars the applicability of Section 438 of the Code of Criminal Procedure, 1973 in relation to any case involving the arrest of any person on an accusation of having committed an offence under the aforesaid Act, 2016, this Court finds that the present petition filed by the petitioner herein seeking anticipatory bail is not maintainable, hence the present petition stands dismissed.

(Mohit Kumar Shah, J)

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