

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4180 of 2020

Arising Out of PS. Case No.-748 Year-2019 Thana- CHAPRA TOWN District- Saran

RAJA BABU MAHTO @ RAJABABU MAHTO Son of Shyambabu Mahto
@ Shyam Babu Mahto Resident of Mohalla - Sahebganj, Adda No. 2, Ward
No. 29, P.S.- Chapra Town, Distt - Saran at Chapra.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dewendra Narayan Singh
For the Opposite Party/s : Mr.Gauri Shankar Gupta

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 23-06-2020 The present petition has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

Heard the learned counsel for the petitioner and Shri Gauri Shankar Gupta, the learned A.P.P. appearing for the State.

The petitioner apprehends his arrest in connection with Saran (Chapra) Town P.S. Case No. 748 of 2019 for the offence punishable under Sections 30(a), 41(i) (ii) of the Bihar Prohibition and Excise Act, 2016.

The case of the prosecution in brief is that on the alleged date and time of occurrence, the informant and other police personnel had conducted raid at the alleged place of



occurrence i.e. the house of Dilip Mahto and from there, 677. 490 liters of illicit liquor was recovered. It is alleged that at the said place, the mother of the petitioner was found standing and was apprehended by the police from the spot, who disclosed that his son had fled away after seeing the police.

The learned counsel for the petitioner has submitted that the petitioner is innocent, no illicit liquor has been recovered from the conscious possession of the petitioner, he is having a clean antecedent and has been falsely implicated in the present case merely on the so-called confessional statement of his mother, which, in any event, does not have any evidentiary value. It is further submitted that since no recovery has been made from the conscious possession of the petitioner and the petitioner has not been arrested from the spot, no case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016, hence the bar under section 76(2) of the Bihar Prohibition and Excise Act, 2016 shall not be attracted in the present case thus there is no impediment in grant of anticipatory bail to the petitioner.

Per contra, the learned Additional Public Prosecutor appearing for the State has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the



case, considering the submissions advanced by the learned counsel for the petitioner and taking into account the fact that no recovery of illicit liquor has been made from the conscious possession of the petitioner and the petitioner is having a clean antecedent, this Court finds that *prima facie* no case is made out under the Bihar Prohibition and Excise Act, 2016, hence this Court deems it fit and proper to admit the petitioner to the privilege of anticipatory bail.

Accordingly, in the event of arrest or surrender before the learned court below within a period of four weeks from today, the petitioners above-named, is directed to be enlarged on anticipatory bail on furnishing bail-bonds of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of learned 2nd Additional Sessions Judge-cum- Special Judge, Excise, Saran at Chapra in connection with Chapra Town P.S. Case No. 748 of 2019, subject to the condition as laid down under Section 438(2) Cr. P. C.

(Mohit Kumar Shah, J)

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