

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10700 of 2020

Arising Out of PS. Case No.-362 Year-2019 Thana- SURSAND District- Sitamarhi

VIJAY CHAUDHARY @ VIMAL KUMAR CHAUDHARY Son of Sogarth Chaudhary Resident of Village- Maliyar, P.S.- Jaleshwar, Distt- Mohatari (Nepal)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Devendra Kumar

For the Opposite Party/s : Mr.Meena Singh

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 26-06-2020 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 Mrs. Meena Singh, learned A.P.P. for the State.

The petitioner apprehends his arrest in connection with Sursand P.S. Case No. 362 of 2019 for the offence registered under Sections 30(A), 38 and 41 of the Bihar Prohibition & Excise Act,2016.

The allegation is regarding recovery of 80.400 litres of illicit Nepali Soufi wine from the co-accused persons, namely, Md. Tahir and Md. Kalam and upon interrogation they are said



to have disclosed the name of the petitioner as one of their accomplice.

The learned counsel for the petitioner has submitted that the petitioner is innocent and he has been falsely implicated in the present case. It is further submitted that there is no evidence on record to suggest the complicity of the petitioner in the alleged crime and moreover no recovery of illicit liquor has been made from the house of the petitioner herein or his vehicle. It is further submitted that the name of the petitioner has transpired in the present case merely on the basis of confessional statement of the co-accused persons, hence prima facie no case is made out under the provisions of the Bihar Prohibition & Excise Act, 2016 (hereinafter referred to as the 'Act, 2016'), thus it is submitted that the bar under Section 76(2) of the Act, 2016 shall not be applicable in the present case and this Court is competent to grant anticipatory bail to the petitioner herein.

Having regard to the facts and circumstances of the case and considering the submissions made by the learned counsel for the petitioner as also taking into account the fact that no recovery of illicit liquor has been made either from the house or from the vehicle of the petitioner and moreover the name of the



petitioner has been roped in the present case merely on suspicion on the basis of confessional statement made by the co-accused persons, this Court finds that prima facie no case is made out for the offences punishable under the provisions of the Act, 2016, as far as consideration of the present anticipatory bail petition is concerned, hence I deem it fit and proper to admit the petitioner herein to the privilege of anticipatory bail.

Accordingly, the petitioner, above named, is directed to be released on anticipatory bail in the event of his arrest/surrender before the court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-II-cum-Special Judge (Excise Act), Sitamarhi in connection with Sursand P.S. Case No. 362 of 2019 subject to the conditions as stipulated under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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