

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10957 of 2020

Arising Out of PS. Case No.-508 Year-2019 Thana- BODHGAYA District- Gaya

MIRTYUNJAY KUMAR @ MRITUNJAY KUMAR Son of Jagdeo Yadav @
Jagdish Yadav Resident of Village - Rampur, P.S.- Bodh Gaya, District- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sudhir Kumar Sinha
For the Opposite Party/s : Mr.Gulnar Begum

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 29-06-2020 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 the learned APP for the State.

This is an application for grant of anticipatory bail in connection with Bodh Gaya P.S. Case No. 508 of 2019 registered for the offence punishable under Sections 272, 273 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act, 2016.



The allegation is regarding recovery of 53.25 liters of illicit liquor and 96 liters of Beer from a Tata Indigo vehicle and the name of the petitioner has transpired in the present case upon confessional statement made by the co-accused person.

The learned counsel for the petitioner has submitted that the petitioner is innocent, he has been falsely implicated in the present case and he is having a clean antecedent. It is further submitted by referring to paragraph nos. 11 and 13 of the present petition that neither the petitioner is the owner nor driver of the vehicle in question and in fact, the owner of the vehicle in question is one Sunjit Kumar. It is further submitted that no recovery of illicit liquor has been made either from the vehicle of the petitioner or from his house, hence, no offence under the provisions of the Bihar Prohibition and Excise Act, 2016 is made out, thus, the bar of Section 76(2) of the Bihar Prohibition and Excise Act, 2016 shall not be a hindrance for the purposes of grant of anticipatory bail to the



petitioner herein. It is further submitted that there is no compliance of Section 100 Cr.P.C. while preparing the seizure list, hence, the entire seizure is illegal and void.

Per contra, the learned APP for the State has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioner and taking into account the fact that the petitioner is neither the driver nor the owner nor the occupier of the vehicle in question from which illicit liquor has been recovered and moreover, there is no material on record to connect the petitioner with the alleged crime, except the confessional statement of the co-accused person, this Court finds that no offence is made out under the provisions of the Bihar Prohibition and Excise Act as far as consideration of the present petition for grant of anticipatory bail is concerned, hence, the bar under Section 76(2) of the Bihar Prohibition and Excise Act, 2016 shall not come in the way of this



Court to grant anticipatory bail to the petitioner herein, thus, I deem it fit and proper to admit the petitioner to the privilege of anticipatory bail.

Accordingly, the petitioner is directed to be enlarged on anticipatory bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, on furnishing bail bond of Rs. 10,000/- (rupees 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. 508 of 2019, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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