

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8733 of 2020

Arising Out of PS. Case No.-528 Year-2019 Thana- SAKRA District- Muzaffarpur

BHOLA RAY Son of Haricharan Ray Resident of Village- Bariyarpur, P.S.-
Sakra, District- Muzaffarpur.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner : Mr.Rajiv Ranjan
For the Opposite Party : Mr.Anil Kumar Singh No. 1

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 28-02-2020 Heard the learned counsel for the petitioner and the
learned APP for the State.

The petitioner apprehends his arrest in connection with Sakra P.S. Case No. 528 of 2019 for the offence punishable under Sections 272 and 273 of the Indian Penal Code and 30(a) of Bihar Prohibition and Excise Act, 2016.

The allegation is regarding recovery of 2.70 liters of illicit English wine from the brick kiln belonging to the petitioner.

The learned counsel for the petitioner has submitted that the petitioner is innocent and is having a clean antecedent and has got no complicity in the matter. In seizure list, neither any illicit liquor is stated to have been recovered from the



personal possession of the petitioner nor from his office but the same has been recovered from the premises of the brick kiln of the petitioner where several labours are working, hence, the provisions of the Bihar Prohibition & Excise Act, 2016 are not attracted.

Having regard to the facts and circumstances of the case, considering the submission made by the learned counsel for the petitioner as also taking into account the fact that the illicit liquor has not been recovered either from the conscious possession of the petitioner or from his office but has been recovered from the premises of the brick kiln in question, this Court finds that no *prima facie* case is made out under the provisions of the Bihar Prohibition & Excise Act, 2016 as against the petitioner, herein, as far as the consideration of the present bail petition is concerned, hence, the bar of Section 76(2) of the Bihar Prohibition and Excise Act, 2016 would not come in the way of the petitioner, for the purposes of grant of anticipatory bail to him, hence, I deem it fit and proper to grant anticipatory bail to the petitioner herein.

Accordingly, in the event of arrest or surrender in the court below within a period of four weeks from today, the petitioner above named is directed to be released on anticipatory



bail on furnishing bail-bonds of Rs. 10,000/- with two sureties of the like amount to the satisfaction of learned Special Judge Excise, Muzaffarpur with Sakra P.S. Case No. 528 of 2019, subject to the conditions laid down under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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