

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10870 of 2020

Arising Out of PS. Case No.-61 Year-2019 Thana- BHAGWANGANJ District- Patna

Perma Nand Yadav S/o Late Mugal Yadav R/o village- Khainiya, P.S.-
Bhagwanganj, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr.Ajay Kumar Sinha
For the Opposite Party/s :	Mr.Md. Iftekhar Mahmood
	Mrs. Anita Kumari Singh

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 11-06-2020 The present petition has been taken up for consideration through the mode of Video conferencing in view of the prevailing lock-down on account of COVID 19 Pandemic, requiring social distancing.

Heard the learned counsel for the petitioner and Mrs. Anita Kumari Singh, learned A.P.P. for the State.

The petitioner apprehends his arrest in connection with Special Case No. 5760 of 2019 arising out of Bhagwanganj P.S. Case No. 61 of 2019 for the offence registered under Sections 30 (a) (b) (c)of the Bihar Prohibition and Excise Act.

The allegation is regarding the Police having received secret information that two persons are engaging in manufacturing and sale of illicit liquor near the bank of Punpun river, whereupon the informant along with the police force had



reached at the alleged place of occurrence on the alleged date and time and arrested one person while the other person had fled away. The said arrested person upon interrogation had named the petitioner as the person who had fled away. It is further alleged that some quantity of illicit country made Mahua liquor was recovered from the spot.

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 the petitioner is having a fair antecedent inasmuch as he is an accused in one other case in which is on bail. It is further submitted that neither any recovery of illicit liquor has been made from the conscious possession of the petitioner nor from his house as is apparent from the FIR, hence no offence is made out under the provisions of the Bihar Prohibition & Excise Act, 2016 (hereinafter referred to as 'the Act, 2016'), thus there is no impediment in grant of anticipatory bail to the petitioner and the bar under Section 76(2) of the Act, 2016 shall not come into play as far as the consideration of the case of the petitioner for grant of anticipatory bail is concerned.

Per contra, the learned A.P.P. for the State has



vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case and considering the admitted fact that no recovery of illicit Mahua liquor has been made from the conscious possession of the petitioner or from his house, prima facie no offence is made out under the provisions of the Act, 2016, hence this Court deems it fit and proper to admit the petitioner 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 Special Judge, Excise, Patna in connection with Special Case No. 5760 of 2019 arising out of Bhagwanganj P.S. Case No. 61 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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