

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10642 of 2020

Arising Out of PS. Case No.-529 Year-2019 Thana- SARAIYA District- Muzaffarpur

SUBODH KUMAR Son of Jhansi Sahni Resident of Village - Salempur
Nandlalpur, Lalganj, P.S, - Lalganj, Distt - Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr.Mukesh Kumar
For the Opposite Party/s :	Mr. Ashok Kumar
	Mr.Sanjay Kumar Pandey

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 Shri Ashok Kumar, learned A.P.P. for the State.

The petitioner apprehends his arrest in connection with Saraiya P.S. Case No. 529 of 2019 for the offence registered under Sections 272 and 273 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

The case of the prosecution is that after the Police had apprehended the petitioner herein who was riding on a motorcycle, 35 litres of illicit liquor was recovered , however,



the petitioner managed to flee away.

The learned counsel for the petitioner has submitted that the petitioner is innocent, he has been falsely implicated in the present case and is having a clean antecedent.

Per contra, the learned A.P.P. for the State has submitted that since there is a direct allegation on the petitioner of having committed an offence under the provisions of the Bihar Prohibition & Excise Act, 2016 (hereinafter referred to as 'the Act, 2016'), the bar of Section 76(2) of the Act, 2016 would come into play and consequently the present petition for grant of anticipatory bail is not maintainable.

Having regard to the facts and circumstances of the case, this Court finds that the present petition is not maintainable in view of the bar under Section 76(2) of the Act, 2016 inasmuch as prima facie a case is made out under the provisions of the Act, 2016, hence this Court deems it fit and proper to dispose off the petition, however, with a direction to the learned court of Special Judge, Muzaffarpur in connection with Saraiya P.S. Case No. 529 of 2019 to consider the prayer of the petitioner for grant of bail on the very same day of the petitioner surrendering before the learned court below and filing appropriate petition and pass appropriate orders considering the case of the



petitioner sympathetically in view of the fact that a meager quantity of illicit liquor has been recovered from the petitioner and moreover the petitioner is having a clean antecedent.

The petition stands disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

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