

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10820 of 2020

Arising Out of PS. Case No.-11 Year-2020 Thana- SISWAN District- Siwan

RAMBHAJAN YADAV Son of Late Rajdeo Yadav Resident of Village- Basti
Manjhariya, P.S.- M. H. Nagar Hasanpura, District- Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajay Kumar Tiwary
For the Opposite Party/s : Mrs. Anita Kumari Singh
Mr.Gauri Shankar Gupta

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 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 Siswan (M.H. Nagar) P.S. Case No. 11 of 2020 for the offence registered under Section 414 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition Excise Act, 2018.

The allegation is regarding recovery of 250.50 litres of illicit liquor from the house of the petitioner.

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 that a bare perusal of the seizure list would show that compliance of Section 100 Cr.P.C. has not been made qua the seizure list, hence the entire seizure list is illegal and vitiated, thus no offence is made out under the provisions of the Bihar Prohibition & Excise Act, 2016 (hereinafter referred to as 'the Act, 2016') as such there is no impediment in considering the present anticipatory bail petition of the petitioner and the bar of Section 76(2) of the Act, 2016 would not be attracted.

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, considering the fact that the seizure list has been prepared in violation of the provisions contained in Section 100 of the Code of Criminal Procedure, rendering the entire seizure to be illegal and void, this Court finds that prima facie no case is made out under the provisions of the Act, 2016, hence this Court directs for admitting 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 Additional District and Sessions Judge-2nd-cum-Special Judge (Excise), Siwan in connection with Siswan (M.H. Nagar) P.S. Case No. 11 of 2020 subject to the conditions as stipulated under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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