

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14582 of 2020

Arising Out of PS. Case No.-165 Year-2014 Thana- LAKHISARAI District- Lakhisarai

BHUNA KEWAT S/o Ram Chandra Kevat R/o village- Gangta, P.S.-
Lakhisarai, District- Lakhisarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar

For the Opposite Party/s : Mr.Indu Kumari Srivastava

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 02-07-2020 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 Mrs. Indu Kumari Shrivastava, the learned APP appearing for the State.

The petitioner apprehends his arrest in connection with Lakhisarai P.S. Case No. 165 of 2014 for the offence punishable under Sections 272/ 273/ 290 of the Indian Penal Code and section Section 47(A) of Excise Act.

The allegation is regarding recovery of 40 liters of Mahua liquor from the side of a pond situated in front of the house of the petitioner.

The learned counsel for the petitioner has submitted



that the petitioner is innocent, has been falsely implicated in the present case and is having a clean antecedent. It is further submitted that since the illicit Mahua liquor has not been recovered either from the conscious possession of the petitioner or from his house, the provisions of the Bihar Prohibition and Excise Act, 2016 (hereinafter to be referred to as the Act, 2016), are not attracted, thus the bar under section 76(2) of the Act, 2016 shall not be applicable in the present case, hence, there is no impediment in grant of anticipatory bail to the petitioner.

The learned A.P.P. appearing for the State has vehemently opposed the prayer for anticipatory 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 illicit Mahua liquor has neither been recovered from the conscious possession of the petitioner nor from his house but from the side of the pond situated in the front of the house of the petitioner, as is apparent from the FIR, this Court finds that prima facie no case is made out under the provisions of the Act, 2016, hence the bar under section 76(2) of the Act, 2016 shall not be applicable in the present case, thus, this Court deems it fit and proper to admit the petitioner to the privilege of anticipatory



bail.

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 each to the satisfaction of learned Additional District & Sessions Judge II-cum- Special Judge (Excise), Lakhisarai, in connection with Lakhisarai P.S. Case No. 165 of 2014, subject to the conditions laid down under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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