

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14522 of 2020

Arising Out of PS. Case No.-346 Year-2019 Thana- NAWANAGAR District- Buxar

TEJ NARAYAN YADAV S/o Late Khedan Yadav Resident of Village- Atimi
Thegu Dera, P.S.- Nawanagar, Distt- Buxar.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajeev Ranjan

For the Opposite Party/s : Mr.Gauri Shankar Gupta

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 Shri Gauri Shankar Gupta, the learned APP for the State.

The petitioner apprehends his arrest in connection with Nawanagar P.S. Case No. 346 of 2019 for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2018 and Sections 272 & 273 of the Indian Penal Code.

The allegation is regarding recovery of 81 liters of foreign liquor from the hut of the co-accused person namely Rajendra Yadav.

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 neither the illicit liquor has been recovered from the conscious possession of the petitioner nor the hut in question, from where the illicit liquor has been recovered, belongs to the petitioner, thus no case is made out under the provisions of the Bihar Prohibition & Excise Act, 2016 (hereinafter referred to as “the Act, 2016”), hence the bar of section 76(2) of the Act, 2016 shall not be an impediment in considering the prayer of the petitioner for grant of anticipatory bail.

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 no recovery has been made from the conscious possession of the petitioner, as far as the illicit liquor is concerned, and the place from where the illicit liquor has been recovered, admittedly belongs to the co-accused person, namely Rajendra Yadav, this Court prima facie finds that no case is made out under the provisions of the Act, 2016, as far as consideration of the



present case is concerned, hence the bar of section 76(2) of the Act, 2016 shall not be impediment in considering the prayer of the petitioner herein for grant of anticipatory bail, thus I deem 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 and Sessions Judge-II-cum- Special Judge Excise, Buxar, in connection with Nawanagar P.S. Case No. 346 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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