

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17040 of 2020

Arising Out of PS. Case No.-36 Year-2020 Thana- BARAUNI District- Begusarai

ASHOK RAI Son of Late Guneshwar Rai Resident of Village - Kilgarhara,
P.S.- Barauni (Garhara), Dist.- Begusarai.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anuj Kumar, Adv.

For the Opposite Party/s : Mr.Choubey Jawahar, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 10-09-2020 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 Sri Chaubey Jawahar, the learned APP for the State.

This is an application for grant of anticipatory bail in connection with Barauni P.S. Case No. 36 of 2020 registered for the offence punishable under Section 188 of the Indian Penal Code and Sections 30(a), 41(i)(ii) of the Bihar Prohibition & Excise Act,



2016.

The allegation is regarding huge quantity of illicit liquor having been recovered from the under construction house of the petitioner herein.

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 first of all, the house in question from where the illicit liquor has been recovered, is admittedly under construction and the petitioner is not residing there, hence, he cannot be saddled with the liability of the illicit liquor, which has been recovered and secondly, neither any illicit liquor has been recovered from the conscious possession of the petitioner nor the petitioner has been arrested from the spot nor there is compliance of Section 100 Cr.P.C. while preparing the seizure list, hence, the entire seizure is void.

Per contra, the learned APP for the State has vehemently opposed the prayer for 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 admittedly, the seizure has been made from under construction house of the petitioner, where the petitioner is not staying and moreover, neither the illicit liquor has been recovered from the conscious possession of the petitioner nor the petitioner has been arrested from the spot nor there is compliance of Section 100 Cr.P.C. while preparing the seizure list, this Court finds that prima facie, no case is made out as against the petitioner, as far consideration of the present bail petition is concerned, hence, the bar under Section 72 of the Bihar Prohibition and Excise Act, 2016 shall not come in the way of this Court in granting anticipatory bail to the petitioner, thus, this Court deems it fit and proper to admit the petitioner to the privilege of anticipatory bail.

Accordingly, the petitioner is directed to be enlarged on anticipatory bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of



receipt/production of a copy of this order, on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge IInd-cum-Special Judge, Excise Act, Begusarai in connection with Barauni P.S.Case No. 36 of 2020, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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