

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26257 of 2020**

Arising Out of PS. Case No.-216 Year-2019 Thana- MAJORGANJ District- Sitamarhi

KUNAL SINGH @ KUNAL KUMAR Son of Late Murari Singh Resident of
Village - Dagraha, P.S.- Mejorganj, District - Sitamarhi.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pushpendra Kumar Singh
For the Opposite Party/s : Mr.A.G.

**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER**

2 16-10-2020 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 Syed Majobar Rahman, learned A.P.P. for the State.

The petitioner apprehends his arrest in connection with Majorganj P.S. Case No. 216 of 2019 for the offence registered under Section 414 of the Indian Penal Code and Section 30(A) of the Bihar Prohibition and Excise Act, 2016.

The allegation is regarding recovery of 990 litres of Nepali Soufi wine from a Tata Sumo vehicle and the driver of the said vehicle was arrested, who had disclosed his name as Sunni Kumar Singh as also has disclosed the name of the owner



of the illicit wine to be the petitioner herein and other co-accused persons.

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. The learned counsel for the petitioner has further referred to para-11 of the present petition to show that the petitioner is not the owner of the said Tata Sumo vehicle from which illicit Nepali Saufi wine has been recovered and moreover no illicit wine has been recovered from the conscious possession of the petitioner, hence it is submitted that the provisions of the Bihar Prohibition & Excise Act, 2016 are not attracted in the present case.

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 submissions made by the learned counsel for the petitioner and taking into account the fact that neither the vehicle from which illicit wine has been recovered, belongs to the petitioner nor any recovery of illicit liquor has been made from the conscious possession of the petitioner apart from the fact that he is having a clean antecedent, I find that no prima facie



case is made out under the provisions of the Bihar Prohibition & Excise Act, 2016, hence the bar under Section 76(2) of the Act, 2016 shall not be an impediment for the purposes of grant of anticipatory bail to the petitioner herein, thus I deem it fit and proper to admit 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 A.D.J.-II-cum-Special Judge, Excise Act, Sitamarhi in connection with Mejorganj P.S. Case No. 216 of 2019 subject to the conditions as stipulated under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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