

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22696 of 2020

Arising Out of PS. Case No.-278 Year-2019 Thana- MOKAMAH District- Patna

RAHUL KUMAR Son of Pappu Singh Resident of Village- Barahpur, P.S.-
Mokama, Distt- Patna.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Manoj Kumar Pandey

For the Opposite Party/s : Mr. Shakir Ahmad

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 30-09-2020

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.

Heard the learned counsel for the petitioner and Sri Shakir Ahmad, the learned A.P.P. for the State.

This is an application for grant of anticipatory bail in connection with Mokama PS case no. 278 of 2019 registered for the offences punishable under Sections 414, 420/34 of Indian Penal Code and 30(a) of Bihar Prohibition and Excise Act.

The allegation is regarding the police force having engaged in checking of vehicles and at the alleged date and time of occurrence, one Scorpio vehicle had arrived and on seeing the police force, the occupants of the said vehicle had stopped the vehicle as also had tried to flee away, however three of the occupants were arrested but one managed to flee away and on inquiry from the



arrested persons, they had disclosed that one Gauri Shanker Singh is engaged in the business of illicit liquor. The police force is alleged to have recovered 168 liters of illicit foreign liquor from the said Scorpio vehicle, after search was made, whereafter they had gone to the medical store of the said Gauri Shanker Singh and 18.375 liters of illicit liquor was recovered, thereafter upon interrogation, the said Gauri Shanker Singh had disclosed the name of the petitioner to be one of his accomplice.

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 the petitioner has got no complicity in the matter and infact, the Scorpio vehicle does not belong to him as would be apparent from paragraph no. 10 of the present petition.

Per contra, the learned APP for the State vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case, considering the submissions of the learned counsel for the petitioner and taking into account the fact that neither the vehicle in question from which, illicit liquor has been recovered, belongs to the petitioner nor any liquor has been recovered from the conscious possession of the petitioner and moreover, his name has transpired in the present case merely on the basis of confessional statement of the co-accused person, apart from the fact that the petitioner is having a



clean antecedent, *prima facie* it appears that no case is made out against the petitioner under the provisions of the Bihar Prohibition and Excise Act, 2016, hence the bar under Section 76(2) of the said Act, 2016 shall not be applicable in the present case, thus this Court deems it fit and appropriate to admit the petitioner to the privilege of anticipatory bail. Accordingly, the abovenamed petitioner, in the event of his arrest or surrender before the court below within a period of six weeks from the date of receipt/ production of a copy of this order, is directed to be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Rs. Ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise, Patna in connection with Mokama PS case no. 278 of 2019 subject to the conditions as laid down under Section 438(2) of Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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