

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23946 of 2020

Arising Out of PS. Case No.-847 Year-2019 Thana- SARAIYA District- Muzaffarpur

RAJ KISHORE KUMAR @ RAJ KISHORE RAY Son of Ramsewak Ray
Resident of Village- Manikpur, P.S.- Saraiya, Distt- Muzaffarpur.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Javed Aslam

For the Opposite Party/s : Mr.Anand Mohan Mehta

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 08-10-2020

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.

Heard the learned counsel for the petitioner and Sri Anand Mohan Mehta, the learned A.P.P. for the State.

This is an application for grant of anticipatory bail in connection with Saraiya PS case no. 847 of 2019 registered for the offences punishable under Sections 414/34 of Indian Penal Code and 30(a) of Bihar Prohibition and Excise (Amendment) Act, 2018 (hereinafter referred to as the 'Act, 2018').

The allegation is regarding recovery of 177.120 liters of illicit foreign liquor from an Alto car belonging to the co-accused person namely Aman Kumar.



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 owner of the vehicle in question from which illicit liquor has been recovered, has already been granted bail by a co-ordinate Bench of this Court vide order dated 28.02.2020, passed in Cr. Misc. no. 7826 of 2020. It is further submitted that the petitioner is neither the driver nor the owner of the Maruti Alto Car, from which illicit liquor has been recovered.

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 petitioner is the driver nor the owner of the vehicle from which illicit liquor has been recovered, this Court finds that *prima facie*, no case is made out under the provisions of the 'Act, 2018', hence the bar of Section 76(2) of the Act, 2016 shall not come into play in the present case and moreover, considering the parity of the case of the petitioner with that of the co-accused person who has already been granted bail by a co-ordinate Bench of this Court, I deem 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 Act, Muzaffarpur in connection with Saraiya PS case no. 847 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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