

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24049 of 2020

Arising Out of PS. Case No.-58 Year-2020 Thana- RAJAOLI District- Nawada

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1. UMESH YADAV Son of Keshav Prasad Yadav Resident of Village - Pahwachak, P.S.- Rajauli, District - Nawada.
 2. Munna Kumar Yadav @ Munna Kumar Son of Bablu Kumar Yadav Resident of Village - Pahwachak, P.S.- Rajauli, District - Nawada.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pramod Kumar Verma

For the Opposite Party/s : Mr. Kalyan Shankar

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 petitioners and Shri Kalyan Shankar, learned A.P.P. for the State.

At the outset, the learned counsel for the petitioner no. 1 submits that the petitioner no. 1 has been arrested, hence the present petition qua the petitioner no. 1 is not being pressed.

Accordingly, the present petition qua the petitioner no. 1 stands dismissed as not pressed.

The petitioner no. 2 apprehends his arrest in connection



with Rajauli P.S. Case No. 58 of 2020 for the offence registered under Sections 30(a)/41 of the Bihar Prohibition and Excise Act, 2016.

The allegation is regarding the police having received secret information to the effect that some miscreants were engaging in illicit liquor trade, whereafter the police had reached at the place of occurrence and 10 litres of illicit country made Mahua wine was recovered from the bamboo orchard.

The learned counsel for the petitioner no. 2 has submitted that the petitioner no. 2 is innocent, he has been falsely implicated in the present case and is having a clean antecedent. It is further submitted that neither any illicit liquor has been recovered from the conscious possession of the petitioner no. 2 nor the petitioner no. 2 is the owner of the bamboo orchard, hence 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 any recovery of illicit liquor has been made from the conscious



possession of the petitioner no. 2 nor the bamboo orchard in question belongs to the petitioner, this Court finds 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 come in the way of this Court to grant anticipatory bail to the petitioner herein, hence this Court deems it fit and proper to admit the petitioner no. 2 to the privilege of anticipatory bail.

Accordingly, the petitioner no. 2, 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 Additional Sessions Judge-II-cum-Special Judge, Nawada in connection with Rajauli P.S. Case No. 58 of 2020 subject to the conditions as stipulated under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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