

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27089 of 2020

Arising Out of PS. Case No.-65 Year-2020 Thana- SUPPI District- Sitamarhi

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DHARMENDRA RAI S/o Srikant Rai Resident of Village-Pakri Kothi, Police
Station-Suppi, District-Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Pushpendra Kumar Singh
For the Opposite Party/s : Mr. Ashok Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 13-11-2020 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 Ashok Kumar, the learned A.P.P. appearing for the State.

The petitioner apprehends his arrest in connection with Suppi P.S. Case No. 65 of 2020 for the offence punishable under Sections 272, 273, 414 of the Indian Penal Code and Section 30(A) of the Bihar Prohibition and Excise Act, 2018.

The case of the prosecution in brief is that the police received a secret information that an Apache Motorcycle along with one cartoon of liquor has been apprehended by the villagers and the accused persons namely Ganesh Rai and his



brother-in-law i.e. the petitioner herein had fled away, whereafter the informant and the police party had reached at the place of occurrence and had recovered 9 litres of Nepali Kasturi saufi liquor which was loaded on the said motorcycle.

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. The learned counsel for the petitioner, by referring to paragraph no. 12 of the petition, has stated that the petitioner is neither owner of the motorcycle apprehended by the police nor has any concern with the seized illicit Nepali Kasturi Sausi liquor, hence, no case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016.

The learned A.P.P. appearing for the State has vehemently opposed the prayer for anticipatory bail, made by the petitioner.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the parties and taking into account the fact that neither the petitioner is the owner of the motorcycle in question nor the illicit liquor has been seized from the possession of the petitioner, this court finds that prima facie no case is made out



as against the petitioner herein under the provisions of the Bihar Prohibition and Excise Act, 2016, as far as consideration of the instant anticipatory bail petition is concerned, hence the bar of section 76(2) of the Bihar Prohibition and Excise Act, 2016 shall not be an impediment for the purposes of grant of anticipatory bail to the petitioner, thus, I deem it fit and proper to admit the petitioner to the privilege of anticipatory bail.

Accordingly, in the event of arrest or surrender before the learned court below within a period of four weeks from today, the petitioner, above named, is directed to be released on anticipatory bail on furnishing bail-bonds of Rs. 10,000/- 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 Suppi P.S. Case No. 65 of 2020, subject to the conditions as laid down under Section 438(2) Cr. P.C.

(Mohit Kumar Shah, J)

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