

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22642 of 2020

Arising Out of PS. Case No.-9 Year-2020 Thana- VAISHALI District- Vaishali

SHAMBHU RAI @ SHAMBHU RAY S/O Parikshan Ray @ Parikchan Rai
R/O Village - Jagdishpur @ Jagdish, P.S. - Belsar O.P., District - Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Manish Chandra Gandhi
For the Opposite Party/s : Mr.A.G.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 28-09-2020 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, requiring social distancing.

Heard the learned counsel for the petitioner and Shri Manoj Kumar, learned A.P.P. for the State.

The petitioner apprehends his arrest in connection with Vaishali (Belsar OP) P.S. Case No. 09 of 2020 for the offence registered under Section 30(a) of the Bihar Prohibition and Excise Act, 2018.

The allegation is regarding recovery of 133.515 litres of illicit liquor from the area situated in the north portion besides the field/house of the petitioner.

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. It is further submitted that the illicit liquor is stated to have been recovered from a thatched hut, which does not belong to the petitioner herein as has been averred in paragraph no. 6 of the present petition, hence no case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016.

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 the illicit liquor has not been recovered from within the premises of the petitioner herein, this Court finds that the bar under Section 76(2) of the Bihar Prohibition and Excise Act, 2016 shall not be applicable in the present case, hence there is no impediment to consider the prayer of the petitioner for grant of anticipatory bail. This Court further finds that prima facie, no case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016, which is apparent from a bare perusal of the FIR and the averments made in the present bail petition, hence 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 Additional Sessions Judge-II-cum-Excise Court, Vaishali at Hajipur in connection with Vaishali (Belsar OP) P.S. Case No. 09 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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