

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24007 of 2020

Arising Out of PS. Case No.-1400 Year-2019 Thana- AHIYAPUR District- Muzaffarpur

JITENDRA JHA @ JITENDRA KUMAR JHA S/o Sri Subh Chandra Jha
Resident of Village- Paigambarpur (Bariya), P.O.- MIT, P.S.- Ahiyapur, Distt-
Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Hemant Kumar Karan

For the Opposite Party/s : Dr. (Smt. Indihar Kumari, APP)

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 15-10-2020 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 petitioner and Dr. (Smt.) Indihar Kumari, the learned A.P.P. appearing for the State.

The petitioner apprehends his arrest in connection with Ahiyapur P.S. Case No. 1400 of 2019 for the offence punishable under Sections 272 and 273 of the Indian Penal Code and Sections 30(a)/36/38 of the Bihar Prohibition and Excise (Amendment) Act, 2016.

The allegation is regarding recovery of certain



quantities of illicit foreign liquor from the shop of the petitioner.

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 illicit liquor has been recovered from the open shop of the petitioner at a time when the petitioner was not at the shop, hence the possibility of illicit liquor having been planted at the shop cannot be ruled out.

The learned A.P.P. appearing for the State has vehemently opposed the prayer for anticipatory bail.

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 the illicit liquor has been recovered from the shop of the petitioner, this Court finds that a *prima facie* case is definitely made out under the provisions of the Bihar Prohibition and Excise Act, 2016, hence the bar of section 76(2) of the Bihar Prohibition and Excise Act, 2016 shall come into play, consequently the present petition is not maintainable, thus the same stands dismissed.

However, this Court deems it fit and proper to grant liberty to the petitioner to surrender before the learned court below within a period of four weeks from today and in the event



the petitioner surrenders before the learned court of Special Judge, Excise Act, Muzaffarpur in connection with Ahiyapur P.S. Case No. 1400 of 2019 within a period of four weeks from today, the learned court below shall consider and decide the bail of the petitioner on the same very day in a sympathetic manner considering the fact that firstly the illicit liquor has been recovered from the open shop of the petitioner and secondly, the quantity of the said illicit liquor is not huge.

(Mohit Kumar Shah, J)

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