

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23863 of 2020**

Arising Out of PS. Case No.-12 Year-2020 Thana- NOWKOTHI GARHPURA District-
Begusarai

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BIPIN YADAV Son of Late Kanilal Yadav @ Kanilal Yadav Resident of
Village- Rariauna, P.S.- Nawkothe, District- Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sandip Kumar Gautam, Advocate
For the Opposite Party/s : Mr. Uma Nath Mishra, APP

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 17-12-2020 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 appearing for the petitioner and Shri Uma Nath Mishra, learned A.P.P. for the State.

The petitioner apprehends his arrest in connection with Nawkothe P.S. Case No. 12 of 2020 for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

The allegation is regarding recovery of about 426.75 litres of illicit foreign liquor from a pick up van standing near the poultry farm of the petitioner herein.

The learned counsel for the petitioner has submitted that



the petitioner is innocent and he has been falsely implicated in the present case. The learned counsel for the petitioner, by referring to the seizure list, has further submitted that though in column-3, the place from where the illicit liquor has been seized, has been stated to be both from the pick up van standing near the poultry farm of the petitioner and from the Varandah of the house of the petitioner, adjacent to his poultry farm. However, in column no. 5 of the seizure list, it has been stated that the entire quantity of illicit liquor has been recovered from the pick up vehicle. The learned counsel for the petitioner has also submitted that the pick up vehicle in question does not belong to the petitioner, as has been specifically stated in paragraph no. 7 of the present petition, thus it is submitted that no offence 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 materials on record, this Court finds that the seizure list itself is contradictory and not in consonance with the provisions contained under Section



100 Cr.P.C., hence prima facie no case is made out under the provisions of the Bihar Prohibition & Excise Act, 2016, as far as consideration of the present anticipatory bail petition is concerned, thus the bar under Section 76(2) of the Act, 2016 shall not be an impediment in granting anticipatory bail to the petitioner, thus I deem it fit and proper to admit the petitioner herein 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, Begusarai-cum-Special Judge, Bihar Prohibition and Excise Act, 2016, Begusarai in connection with Nawkothe P.S. Case No. 12 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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