

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23917 of 2020

Arising Out of PS. Case No.-3 Year-2020 Thana- GOVERNMENT OFFICIAL COMP.
District- Banka

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KULANAND SAH S/o Ramotar Sah Resident of Village- Bakhtiyarpur, Ward
No. -18, P.S.- Mansi, District- Khagaria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Pawan Kumar Singh, Adv.

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

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 07-10-2020 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 Sri Ashok Kumar, the learned APP for the
State.

This is an application for grant of anticipatory
bail in connection with Excise Complaint Case No.
3 of 2020 registered for the offence punishable
under Sections 30(a) of the Bihar Prohibition and
Excise Amendment Act, 2016.

The allegation is regarding recovery of 42.480
liters of illicit liquor from the possession of two co-



accused persons, namely, Amit Kumar and Kanhaiya Kumar, who were carrying the said illicit liquor in a bag on a motorcycle. It is alleged that the motorcycle belongs to the petitioner herein.

The learned counsel for the petitioner has submitted that the petitioner is innocent, he has been falsely implicated in the present case and he is having a clean antecedent. It is further submitted that admittedly, the illicit liquor has not been recovered from the conscious possession of the petitioner and in fact, the same has been recovered from two other co-accused persons, one of them, namely, Kanhaiya Kumar, being the brother-in-law of the petitioner herein. It is submitted that the said Kanhaiya Kumar had borrowed the motorcycle from the petitioner on the pretext of some urgent work and the petitioner had, on sympathetic consideration, given the motorcycle to his brother-in-law, whereafter the incident in question had taken place.

Per contra, the learned APP 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 available on record, admittedly, the illicit liquor has been recovered from the co-accused persons and not from the petitioner herein, hence, no prima facie case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016, as such, the bar under Section 76(2) of the Bihar Prohibition and Excise Act, 2016 shall not come in the way of this Court for the purposes of grant of anticipatory bail to the petitioner herein, thus, I deem it fit and proper to admit the petitioner to the privilege of anticipatory bail.

Accordingly, the petitioner is directed to be enlarged on anticipatory bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount



each to the satisfaction of learned 2nd Additional Sessions Judge-cum-Special Judge (Excise), Banka in connection with Excise Complaint Case No. 03 of 2020, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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