

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23944 of 2020

Arising Out of PS. Case No.-95 Year-2020 Thana- HASANPUR District- Samastipur

RAHUL KUMAR Son of Shankar Shah Resident of Village - Malhipur, P.S.-
Hasanpur, District - Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Abhimanyu Sharma
For the Opposite Party/s : Mr.Amitesh Kumar

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 08-10-2020

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.

Heard the learned counsel for the petitioner and Sri Amitesh Kumar, the learned A.P.P. for the State.

This is an application for grant of anticipatory bail in connection with Hasanpur PS case no. 95 of 2020 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the Act, 2016).

The allegation is regarding the police force having stopped a motorcycle during the course of vehicle checking, however the persons riding the motorcycle, left the motorcycle and fled away and when search was made, 1.5 liters of illicit



liquor was recovered from the dicky of the 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. 14 of the present petition, has submitted that the motorcycle in question does not belong to the petitioner but to one Ajit Kr. Raut, hence it is submitted that no case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016, thus there is no impediment in grant of anticipatory bail to the petitioner herein.

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 neither any recovery has been made from the conscious possession of the petitioner nor the motorcycle from which the illicit liquor has been recovered belongs to the petitioner, this Court finds that *prima facie*, no case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016, hence the bar under Section 76(2) of the Act, 2016 shall not come in the way of this Court for the purposes of grant of anticipatory bail to the petitioner herein, as such, I deem it fit and appropriate to admit the petitioner to the privilege of anticipatory bail.



Accordingly, the abovenamed petitioner, in the event of his arrest or surrender before the court below within a period of six weeks from the date of receipt/ production of a copy of this order, is directed to be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Rs. Ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge II-cum-Special Judge, Excise, Samastipur in connection with Hasanpur PS case no. 95 of 2020 subject to the conditions as laid down under Section 438(2) of Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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