

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24005 of 2020

Arising Out of PS. Case No.-165 Year-2019 Thana- UDWANTNAGAR District- Bhojpur

KISHAN RAJ Son of Kameshwar Singh Resident of Village - Jagdeo Nagar,
P.S. - Ara Nawada, District - Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anil Kumar

For the Opposite Party/s : Mr. Dinesh Singh, 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 Shri Dinesh Singh, the learned A.P.P. appearing for the State.

The petitioner apprehends his arrest in connection with Udwant Nagar P.S. Case No. 165 of 2019 corresponding to Excise Case No. 859 of 2019 for the offence punishable under Sections 30(a) of the Bihar Prohibition and Excise Act, 2016.

The allegation is regarding recovery of 60 litres of country made Mahua liquor from the co-accused person namely Pappu Kumar, after he was apprehended by the police while travelling on a 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. It is further submitted that the said Pappu Kumar, who was caught by the police and illicit country made mahua liquor was recovered from him, is an employee of the petitioner, who runs a wholesale cloth shop and he had taken the motorcycle of the petitioner and gone to the village for the purposes of collection. It is further submitted that the petitioner has been roped in the present case only on account of the fact that he is the owner of the motorcycle in question and in fact no recovery of illicit mahua liquor has been made from the conscious possession of the petitioner, hence the provisions of the Bihar Prohibition and Excise Act, 2016 are not attracted in the present case.

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 no recovery of illicit Mahua liquor has been made from the conscious possession of the petitioner and the petitioner is having a clean antecedent, this Court finds that no prima facie case is made out



against the petitioner under the provisions of the Bihar Prohibition and Excise Act, 2016, as far as consideration of the present bail petition is concerned, hence the bar of section 76(2) of the Bihar Prohibition and Excise Act, 2016 shall not come in the way of this Court, as far as grant of anticipatory bail to the petitioner herein is concerned, hence, I deem it fit and proper to admit the petitioner to the privilege of anticipatory bail.

Accordingly, in the event of arrest or surrender before the learned court below within a period of four weeks from today, the petitioner, above named, is directed to be released on anticipatory bail on furnishing bail-bonds of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of learned 4th Additional District Judge, Ara, Bhojpur in connection with Udwant Nagar P.S. Case No. 165 of 2019 corresponding to Excise Case No. 859 of 2019 subject to the conditions as laid down under Section 438(2) Cr. P.C.

(Mohit Kumar Shah, J)

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