

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28752 of 2020

Arising Out of PS. Case No.-49 Year-2020 Thana- HARSIDHI District- East Champaran

HARINARAYAN SAHANI Son of Late Ramashish Sahani Resident of
Village - Pannapur Tadhwa Tola ward no. 10, P.S.- Harsidhi, District - East
Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Abhishek Kumar

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

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 01-12-2020 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 for the petitioner and Shri Ashok Kumar, the learned APP, appearing for the State.

The petitioner apprehends his arrest in connection with Harsidhi P.S. Case No. 49 of 2020 for the offence punishable under Section 30(a), 33, 41(I) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

The allegation is regarding recovery of illicit liquor from the bamboo orchard in question.

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 neither the illicit liquor has been recovered from the conscious possession of the petitioner nor the bamboo orchard belongs to the petitioner, hence, no case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016.

The learned APP appearing for the State has vehemently opposed the prayer for anticipatory bail, made by the petitioner.

Having regard to the facts and circumstances of the case, considering the submissions advanced by the learned counsel for the parties and taking into consideration the fact that neither the bamboo orchard belongs to the petitioner nor the illicit liquor has been recovered from the conscious possession of the petitioner, I am of the view 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 Bihar Prohibition and Excise Act, 2016 shall not be an impediment for the purposes of grant of anticipatory bail to the petitioner herein, hence, I deem it fit and appropriate 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, shall be enlarged on anticipatory bail on furnishing bail bonds of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of the learned 9th Additional Sessions Judge cum Special Judge (Excise), Motihari, East Champaran in connection with Harsidhi P.S. Case No. 49 of 2020, subject to the conditions laid down under Section 438(2) of the Cr. P.C.

(Mohit Kumar Shah, J)

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