

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28835 of 2020

Arising Out of PS. Case No.-55 Year-2020 Thana- MAHUA District- Vaishali

NAWLESH KUMAR @ NAWLESH SINGH Son of Ram Milan Singh
Resident of Village - Bali Bathana, P.S.- Mahua, District - Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sunil Kumar Singh

For the Opposite Party/s : Mr.Rana Randhir Singh

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 03-12-2020

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.

Heard the learned counsel for the petitioner and Sri Rana Randhir Singh, the learned A.P.P. for the State.

This is an application for grant of anticipatory bail in connection with Mahua PS case no. 55 of 2020 registered for the offences punishable under Sections 353 and other allied sections of Indian Penal Code and 30(A), 32(ii), 34(ii), 38(ii), 41(i) of Bihar Prohibition and Excise Act, 2018.

The allegation is regarding recovery of 435.96 liters of illicit Indian made foreign liquor from a Maruti van.

The learned counsel for the petitioner has submitted that the petitioner is innocent and has been falsely



implicated in the present case. It is further submitted that the petitioner is having a fair antecedent, inasmuch as he is an accused in one other case but he is on bail in the said case. It is further submitted by referring to paragraph no. 7 of the present petition that the petitioner is neither the owner nor the driver of the Maruti van and is also not having any concern with the illicit liquor seized by the police, hence the provisions of the Bihar Prohibition and Excise Act, 2016 are not attracted in the present case.

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 the Maruti van does not belong to the petitioner and moreover, no illicit liquor has been recovered from the petitioner, I find that *prima facie* no case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016, as far as consideration of the present bail petition is concerned, thus the bar of Section 76(2) of the Act, 2016 shall not be an impediment 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 Court, Vaishali at Hajipur in connection with
Mahua PS case no. 55 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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