

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28755 of 2020

Arising Out of PS. Case No.-178 Year-2019 Thana- FULKAHA District- Araria

SHRAWAN YADAV Son of Bechan Yadav Residednt of Village- Achra, Ward
No.7, P.S.- Fulkaha, Dist- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ramesh Kumar Singh

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

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 02-12-2020 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 Anand Kumar Choudhary, the learned APP, appearing for the State.

The petitioner apprehends his arrest in connection with Fulkaha P.S. Case No. 178 of 2019, corresponding to Special Case No. 1536 of 2019 for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

The informant along with other police officials, on receipt of the secret information, are stated to have reached at the alleged place of occurrence on the alleged date and time of occurrence where they saw 13 persons coming from Nepal side,



however, upon chase only one of the miscreants could be caught and upon search, 360 litres of illicit liquor was recovered. It is also alleged that when the police had interrogated the said arrested person namely Md. Sambir, he is stated to have taken the name of other accused persons, including the petitioner herein, who had fled away from the spot.

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 any illicit liquor has been recovered from the petitioner nor he has been arrested from the spot and moreover his name has transpired in the present case merely on suspicion and upon disclosure made by the co-accused person, 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 account the fact that the name of the petitioner has transpired in the present case merely



on the basis of the confessional statement made by the co-accused person and moreover, no illicit liquor has been recovered from 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, thus 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 ^{2nd} Additional Sessions Judge cum Special Judge (Excise), Araria in connection with Filkaha P.S. Case No. 178 of 2019, corresponding to Special Case No. 1536 of 2019, subject to the conditions laid down under Section 438(2) of the Cr. P.C.

(Mohit Kumar Shah, J)

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