

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31356 of 2020

Arising Out of PS. Case No.-93 Year-2020 Thana- TURKAULIYA District- East Champaran

CHABILA MUKHIYA Son of Laxman Mukhiya Resident of Village -
Chelaha Bin Toli, P.S.- Turkolia (Banjaria), District - East Champaran.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Hans Lal Kumar

For the Opposite Party/s : Mr.Anil Kumar

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 23-12-2020

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 Anil Kumar, the learned A.P.P. for the State.

This is an application for grant of anticipatory bail in connection with Turkolia PS case no. 98 of 2020 registered for the offences punishable under Sections 272, 273/34 of Indian Penal Code and 30(a) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as 'the Act, 2016')

The police is stated to have received secret information that the petitioner herein and one other accused person were engaged in manufacturing of illicit *Chulai* liquor near the banks of Kharawa river, whereafter the police force had



reached at the said place and had recovered 30 liters of illicit *Chulai* liquor from a gallon from the banks of the river situated behind the house of the co-accused person namely Ajay Mukhiya.

The learned counsel for the petitioner has submitted that the petitioner is innocent, has been falsely implicated in the present case and is having clean antecedent. It is further submitted that the illicit liquor has not been recovered either from the house of the petitioner or from the back of the house of the petitioner herein, hence the provisions of the Bihar Prohibition and Excise Act, 2016 are not attracted in the present case.

Per contra, the learned APP for the State has vehemently opposed the prayer for 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 liquor has been made either from the conscious possession of the petitioner or from his house, 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 7th Additional Judge, Excise, Motihari, East Champaran in connection with Turkolia PS case no. 98 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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