

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30034 of 2020

Arising Out of PS. Case No.-108 Year-2020 Thana- GOPALPUR District- Patna

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GOLU KUMAR Son of Sudhir Singh Resident of Village- Sadallichak, Police
Station- Gopalpur, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Jay Ram Prasad

For the Opposite Party/s : Ms. Sharda Kumari

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 18-12-2020

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 Ms. Sharda Kumari, the learned A.P.P. for the State.

This is an application for grant of anticipatory bail in connection with Gopalpur PS case no. 108 of 2020 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act, 2016 (hereinafter to be referred to as 'the Act 2016').

The allegation is regarding recovery of about 15.180 liters of illicit liquor from the house of one co-accused person namely Ravi Kumar. It is further alleged that the brother of the said Ravi Kumar who is the petitioner herein, had fled



away from the said house.

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. The learned counsel for the petitioner has submitted that admittedly, the liquor has been recovered from the house stated to be that of the brother of the petitioner and neither any recovery of illicit liquor has been made from the petitioner nor the petitioner has been apprehended from the spot, hence the provisions of the Bihar Prohibition and Excise Act, 2016 are not attracted.

Per contra, the learned APP for the State 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 materials available on record as also considering the fact that the illicit liquor is stated to have been recovered from the house of the co-accused person namely Ravi Kumar and the petitioner happens to be only the brother of the said Ravi Kumar, although neither any illicit liquor has been recovered from his possession nor he has been apprehended from the spot, I find that *prima facie*, no case is made out against the petitioner herein as far as consideration of



the present bail petition is concerned, hence the bar under 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 Special Judge, Excise, Patna in connection with Gopalpur PS case no. 108 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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