

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31340 of 2020**

Arising Out of PS. Case No.-536 Year-2019 Thana- JAYNAGAR District- Madhubani

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ARUN YADAV @ ARUN KUMAR @ ARUN KUMAR YADAV S/o Munni
Lal Yadav Resident of Village- Khuadh, P.S.- Jaynagar, District- Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Shailendra Kumar Jha

For the Opposite Party/s : Mr.Akshay Lal Pandit

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**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER**

2 22-12-2020

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 Akshay Lal Pandit, the learned A.P.P. for the State.

This is an application for grant of anticipatory bail in connection with Jaynagar PS case no. 536 of 2019 registered for the offences punishable under Sections 272, 273 of Indian Penal Code and 30(a) of Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as 'the Act, 2016').

The allegation is regarding recovery of 135 liters of illicit Nepali liquor from the Bamboo orchard situated behind the house of the petitioner herein.

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 further submitted by referring to paragraph no. 6 of the present petition that the Bamboo Orchard in question from where illicit liquor has been recovered does not belong to the petitioner, hence it is submitted that the provisions of Bihar Prohibition and Excise Act, 2016 are not attracted.

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 the Bamboo Orchard from where illicit liquor has been alleged to have been recovered does not belong to the petitioner herein, this Court *prima facie* finds that no case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016, hence 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 Act, Madhubani in connection with Jaynagar PS case no. 536 of 2019 subject to the conditions as laid down under Section 438(2) of Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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