

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31353 of 2020**

Arising Out of PS. Case No.-165 Year-2020 Thana- MANSI District- Khagaria

HARERAM YADAV S/o Samo Yadav Resident of Village-Khutia, P.S.-
Mansi, District-Khagaria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Binod Kumar

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

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

This is an application for grant of anticipatory bail in connection with Mansi PS case no. 165 of 2020 registered for the offences punishable under Sections 30(a) of Bihar Prohibition and Excise Act, 2018.

The allegation is regarding recovery of 25 liters of illicit *chulai* liquor from a hut situated on the Government land.

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, by referring to paragraph no. 9 of the present petition, has submitted that the petitioner is not the owner of the hut, hence it is submitted that the provisions of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as 'the 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 firstly, the hut in question from which illicit liquor has been recovered is situated on a Government land and secondly, the said hut is stated to be not belonging to the petitioner herein, 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 Special Judge, Excise Act, Khagaria in connection with Mansi PS case no. 165 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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