

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35926 of 2020**

Arising Out of PS. Case No.-466 Year-2020 Thana- TURKAULIYA District- East
Champaran

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1. LAXMAN MUKHIYA S/O DASHRATH MUKHIYA RESIDENT OF VILLAGE CHELAHAN BIB TOLI, P.S. BANJARIYA, DISTRICT- EAST CHAMPARAN.
 2. JAGU MUKHIYA S/O DASHRATH MUKHIYA RESIDENT OF VILLAGE CHELAHAN BIB TOLI, P.S. BANJARIYA, DISTRICT- EAST CHAMPARAN.
 3. ANIL MUKHIYA S/O JAGU MUKHIYA RESIDENT OF VILLAGE CHELAHAN BIB TOLI, P.S. BANJARIYA, DISTRICT- EAST CHAMPARAN.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ranjana Srivastava
For the Opposite Party/s : Mr.Permanand 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 petitioners and Sri Permanand Kumar, the learned A.P.P. for the State.

This is an application for grant of anticipatory bail in connection with Excise case no. 466 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 30 liters of illicit *chulai* liquor from near the banks of Dhanauti river.

The learned counsel for the petitioners has submitted that the petitioners are innocent, have been falsely implicated in the present case and are having clean antecedent. The learned counsel for the petitioners has further submitted that neither the illicit liquor has been recovered from the possession of the petitioners nor from their house, hence 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 illicit liquor has neither been recovered from the petitioners nor from their 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 petitioners herein, as such, I deem it fit and



appropriate to admit the petitioners to the privilege of anticipatory bail. Accordingly, the abovenamed petitioners, in the event of their 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, are directed to be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Rs. Ten thousand) each with two sureties of the like amount each to the satisfaction of learned 7th Additional Sessions Judge -cum- Special Judge, Excise Act, Motihari, East Champaran in connection with Excise case no. 466 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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