

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69335 of 2019

Arising Out of PS. Case No.-254 Year-2019 Thana- BIDUPUR District- Vaishali

NISHANT KUMAR Son of Ram Pravesh Rai Resident of Village- Mirjapur,
P.S.- Patory, District- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Raj Shekhar

For the Opposite Party/s : Mr.Shailendra Kumar

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 23-01-2020 Heard the learned counsel for the petitioner and the
learned APP for the State.

The petitioner apprehends his arrest in connection with Bidupur P.S. Case No. 254 of 2019, corresponding to Excise G.R. No. 388 of 2019 for the offence punishable under Sections 420, 414 of the Indian Penal Code, read with Sections 30(a), 35,41 of Bihar Prohibition and Excise Act, 2016.

The allegation is regarding recovery of huge quantity of illicit liquor from a truck, Alto Car, Indica Maja Car and from a bolero vehicle. As far as the Alto Car is concerned, 72 liters of illicit foreign liquor was recovered and the Alto car is stated to be that of the petitioner.

The learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case



and is having a clean antecedent. The learned counsel for the petitioner, referring to paragraph no.6 of the present petition, has submitted that the said Alto Car was not being driven by the petitioner, but by his friend , namely, Dharmendra Singh and as such, the provisions of Bihar Prohibition and Excise Act are not attracted against the petitioner inasmuch as no recovery was made from the possession of the petitioner. It is further submitted that similarly situated other accused person has already been granted anticipatory bail by a co-ordinate Bench of this Court vide order dated 27.11.2019 passed in Cr. Misc. No. 76385 of 2019.

Having regard to the facts and circumstances of the case and considering the submissions made by the learned counsel for the petitioner coupled with the fact that no recovery of illicit liquor has been made from the possession of the petitioner, this Court finds that prima facie the provisions of the Bihar Prohibition and Excise Act, 2016 are not attracted as far as consideration of the anticipatory bail to the petitioner, hence I deem it fit and proper to admit the petitioner to the privilege of anticipatory bail.

Accordingly, in the event of arrest or surrender in the court below within a period of four weeks from today, the



petitioners above named are directed to be released on anticipatory bail on furnishing bail- bonds of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of learned II Additional District and Sessions Judge-cum- Special Judge-cum- Excise Court, Vaishali at Hajipur, in connection with Bidupur P.S. Case No. 254 of 2019 corresponding to Excise G.R. No. 388 of 2019, subject to the conditions laid down under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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