

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83937 of 2019

Arising Out of PS. Case No.-115 Year-2019 Thana- BENIPATTI District- Madhubani

SHANKAR MAHTO Son of Binod Mahto Resident of Village - Bankatta,
P.S.- Benipatti, Distt.- Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Md. Soban Asghar
For the Opposite Party/s : Mr.Parmanand Kumar

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 08-01-2020 Heard the learned counsel for the petitioner and the
learned A.P.P. for the State.

The petitioner apprehends his arrest in connection with Benipatti P.S. Case No. 115 of 2019 for the offence registered under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

The allegation is regarding recovery of 1.8 litres of illicit liquor from the house of the petitioner.

The learned counsel for the petitioner has submitted that the house in question is in joint possession of the petitioner and his family members, hence the alleged recovery of illicit liquor cannot be attributed to the petitioner herein. It is further submitted that the petitioner is having a clean antecedent.

This Court is of the view that on account of the bar



under Section 76(2) of the Bihar Prohibition and Excise Act, 2016, since a *prima facie* case is made out under the provisions of the said Act, 2016, the present anticipatory bail petition is not maintainable. However, the petitioner is granted liberty to surrender before the learned court below and pray for regular bail and in case the petitioner surrenders before the concerned court below within a period of four weeks from today and prays for regular bail, the learned court below shall consider the case of the petitioner for grant of regular bail and pass appropriate orders on the very same day especially considering the fact that trivial quantity of illicit liquor has been recovered and that too from the house stated to be in joint possession of the petitioner and his family members.

With the aforesaid observations and directions the present petition stands disposed off.

(Mohit Kumar Shah, J)

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