

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13598 of 2020

Arising Out of PS. Case No.-534 Year-2019 Thana- SUGAULI District- East Champaran

Achhelal Sahani Son of Laxmi Sahani Resident of Village- Mehwa, P.S.-
Sugauli, Distt- East Champaran

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dhannjay Kumar No 2

For the Opposite Party/s : Mr.Sanjay Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 21-10-2021 Heard the learned counsel for the petitioner and
learned APP appearing on behalf of State.

The petitioner apprehends his arrest in connection with Sugauli P.S. Case No. 534 of 2019 for the offence punishable under Section 30 (a) of Bihar Prohibition and Excise Act.

The allegation is regarding recovery of 10 litres of country made wine from two plastic bags near Bamboo garden.

The learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case and he is having a clean antecedent. It is further submitted that the bamboo garden as well as alleged recovery of wine does not belong to this petitioner. It is further submitted that since the wine has not been recovered from the conscious



possession of the petitioner, the provisions of the Bihar Prohibition and Excise Act, 2016 (hereinafter to be referred to as the Act, 2016), are not attracted, thus the bar under section 76(2) of the Act, 2016 shall not be applicable in the present case, hence, there is no impediment in grant of anticipatory bail to the petitioner.

The learned APP appearing for the State has vehemently opposed the prayer for grant of anticipatory bail to the petitioner.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioner and taking into account the fact that the illicit country-made wine has not been recovered from the conscious possession of the petitioner but from the bamboo garden, as is apparent from the FIR, this Court finds that prima facie no case is made out under the provisions of the Act, 2016, hence the bar under section 76(2) of the Act, 2016 shall not be applicable in the present case, thus, this Court deems 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 petitioner, above named, is 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 Additional District & Sessions Judge-IX-cum-Special Judge (Excise), East Champaran, Motihari in connection with Sugauli P.S. Case No. 534 of 2019, subject to the conditions laid down under Section 438(2) of the Code of Criminal Procedure.

(Purnendu Singh, J)

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