

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29959 of 2020

Arising Out of PS. Case No.-157 Year-2020 Thana- CHAINPUR District- Kaimur (Bhabua)

BIHARI KHARWAR S/o Late Baraju Kharwar Resident of Village-Bhurkura,
P.S-Chainpur, District-Kaimur at Bhabua.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajani Kant Pandey
For the Opposite Party/s : Mr. Zainul Abedin

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 04-01-2021 Heard learned Counsel for the petitioner and learned
Additional Public Prosecutor for the State.

This application, for grant of anticipatory bail, arises out of Chainpur Police Station Case No. 157 of 2020, disclosing offences under Sections 30(a)/30 (d) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as ‘the Act’).

The allegation, as per the First Information Report, is that the police recovered 40 litres of illicit mahua liquor from the possession of co-accused Bihari Bind, who upon enquiry disclosed that he has got the liquor from a distillery being run by the petitioner, Bihari Kharwar, and also indicated the location of the distillery to the police party. It has further been alleged that when the police party reached the location indicated by the arrested co-accused, the police arrested one Ghura Mushar and



the petitioner succeeded in fleeing away. The police recovered and destroyed a total quantity of 1000 kgs. of fermented mahua, which was kept for preparing illicit liquor.

Learned Counsel for the petitioner submits that the petitioner has falsely been implicated in this case with oblique motive. He further submits that the petitioner has got no criminal antecedent and he has been dragged in this case on the basis of disclosure of his name by co-accused, from whose possession illicit liquor has been recovered. He further submits that no illicit liquor has been recovered from the conscious possession of the petitioner or the premises belonging to him. He, thus, submits that from perusal of the First Information Report and the seizure list, no *prima facie* case is made out against the petitioner under the provisions of the Act.

After having heard learned Counsel for the parties concerned and taking into consideration the materials on record and the fact that no illicit liquor has been recovered either from the conscious possession of the petitioner or the premises belonging to him, I am inclined to grant the petitioner privilege of anticipatory bail.

This application is, accordingly, allowed.

Let the petitioner, Bihari Kharwar, in the event of his



arrest or surrender before the Court below within a period of four weeks from today, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned 5th Additional Sessions Judge -cum- Special Judge, Excise, Kaimur, at Bhabhua, in connection with Chainpur Police Station Case No. 157 of 2020, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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