

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.39001 of 2020**

Arising Out of PS. Case No.-489 Year-2020 Thana- AKBARPUR District- Nawada

SANJAY CHAUDHARY S/o Late Lakhan Chaudhary Resident of Village-  
Sanokhara, P.S.- Akbarpur, District- Nawada.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Krishna Deo Raj

For the Opposite Party/s : Mr.Binod Kumar

**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH**  
**ORAL ORDER**

2      31-05-2021

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 petitioner and Sri Binod Kumar, the learned A.P.P. for the State.

This is an application for grant of anticipatory bail in connection with Akbarpur PS case no. 489 of 2018 registered for the offences punishable under Section 30(d) of Bihar Prohibition and Excise Act.

The allegation is regarding recovery of 200 kg of illicit fermented mahua from underneath the Pipal tree situated near the water body in question.

The learned counsel for the petitioner has submitted that the petitioner is innocent, has been falsely



implicated in the present case and is having a clean antecedent. The learned counsel for the petitioner has further submitted that firstly, there is no compliance of Section 100 Cr.P.C. while preparing the seizure list and secondly, the illicit fermented mahua has not been recovered from a place belonging to the petitioner herein, as has been stated in paragraph no. 9 of the present petition, hence no offence is made out under the provisions of the Bihar Prohibition and Excise Act, 2016.

*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 petitioner and taking into account the materials available on record, this Court finds that the illicit fermented mahua has not been recovered from the premises of the petitioner, hence *prima facie* no case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016, thus the bar under Section 76(2) of the said Act, 2016 shall not be an impediment for grant of anticipatory bail to the petitioner herein, consequently, the abovenamed petitioner, in the event of his arrest or surrender before the court below within a period of eight weeks from the date of receipt/ production of a copy of



this order, is directed to be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Rs. Ten thousand) with two sureties of the like amount each to the satisfaction of learned A.D.J. II-cum-Special Court, Nawada in connection with Akbarpur PS case no. 489 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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