

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.39089 of 2020

**Arising out of P.S. Case No. 134, year- 2019, Thana- Amarpur District
Banka**

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1. Bhola Bersa, Male, aged about 40 years, S/O Late Lalu Bersa,
2. Talo Baski, Male, aged about 50 years, son of Late Surju Baski @ Surya
narayan Baski.
Both resident of village- Pirounta/ Pirota, Police Station- Amarpur, District-
Banka.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opp. Party/s

Appearance :

For the Petitioner/s : Mr. Balram Kapri, Adv.

For the Opp. Party/s : Mr. Jitendra Kumar Singh, APP

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

2 02-06-2021

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, requiring social distancing.

At the outset, the learned counsel for the petitioners has submitted that the petitioner no.1 namely Bhola Bersa, has already been arrested, hence, the present petition qua the petitioner no.1 is not being pressed. Accordingly, the present petition qua the petitioner no. 1 stands dismissed as not pressed.

The petitioner No. 2, namely Talo Baski apprehends his arrest in connection with Amarpur P.S. Case No. 134 of 2019 for the offence under sections 30(a) of the Bihar



Prohibition and Excise Act, 2016.

The allegation is regarding recovery of huge quantity of illicit country made liquor etc. from bushes situated outside the village and it has been alleged that the same belongs to the petitioner no. 2.

The learned counsel for the petitioner has submitted that the petitioner no. 2 is innocent, has been falsely implicated in the present case and is having a clean antecedent. The learned counsel for the petitioner no. 2 has further submitted that the petitioner no.2 has nothing to do with the alleged recovery of illicit country made liquor etc. from outside the village inasmuch as neither the illicit liquor has been recovered from the conscious possession of the petitioner no.2 nor from his house and in fact, the same has been recovered from a place situated outside the village. Thus, it is submitted that the provisions of the Bihar Prohibition and Excise Act, 2016 are not attracted.

Per contra, the learned APP for the State, Shri Jitendra Kumar Singh has vehemently opposed the prayer of the petitioner for grant of anticipatory bail.

Having regard to the facts and circumstances of the case, considering the submissions made by the Ld. Counsel for the parties



account the materials available on

record, this Court finds that since no illicit liquor has been recovered either from the conscious possession of the petitioner no. 2 or from his house, prima facie no case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016, as far as the present bail petition is concerned, thus the bar under section 76 (2) of the Bihar Prohibition and Excise Act, 2016 shall not be an impediment for the purposes of grant of anticipatory bail to the petitioner, thus, I deem it fit and proper to admit the petitioner no. 2 herein to the privilege of anticipatory bail

Accordingly, in the event of arrest or surrender before the learned court below within a period of eight weeks from today, the petitioner no. 2 namely Talo Baski shall be enlarged 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 Sessions Judge 2nd, Banka in connection with Amarpur P.S. Case No. 134 of 2019, subject to the conditions as laid down under section 438(2) of the Cr. P.C.

(Mohit Kumar Shah, J)

Tiwary/-

