

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38501 of 2020
Arising out of P.S. Case No. 135, year- 2020, Thana Mufassil, District
East Champaran

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Nand Kishore Rai, aged about 27 years, male, S/O Late Sajabal Ray, R/O Village Baraharawa, P.S. Mufassil, District East Champaran.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opp. Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Singh, Adv.

For the Opp. Party/s : Mr. Anand Mohan Prasad Mehta, APP

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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, requiring social distancing.

Heard the learned counsel for the petitioner and Shri Anand Mohan Prasad Mehta, the learned APP appearing for the State.

The petitioner apprehends his arrest in connection with Mufassil P.S. Case No. 135 of 2020 for the offence punishable under Sections 272, 273 of the Indian Penal Code and 30(a) of the Bihar Prohibition of Excise Act, 2016.

The allegation is regarding recovery of 552.42 litres of illicit liquor from near the brick kiln of the petitioner situated at vill.



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 a bare perusal of the FIR and the seizure list would show that the illicit liquor has been recovered from a place situated near the Brick Kiln of the petitioner. The learned counsel for the petitioner has also submitted, by referring to paragraph No. 7 of the present petition, that the Brick Kiln in question does not belong to the petitioner as also he is not the owner of the seized illicit liquor, hence, no case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016.

Mr. Anand Mohan Prasad Mehta, the learned APP appearing for the State has vehemently opposed the prayer for anticipatory bail, made by the petitioner.

Having heard the learned counsel for the parties and taking into account the materials available on record, this Court finds that the alleged recovery of illicit liquor, firstly does not appear to have been made from the brick kiln in question and secondly, considering the statement made in paragraph No. 7 of the present petition, it appears that the brick kiln in question does not belong to the petitioner, hence, this Court finds that prima facie no t under the provision of the Bihar



Prohibition and Excise Act, 2016, as far as consideration of present bail petition is concerned, hence 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 to the privilege of anticipatory bail.

Accordingly, in the event of arrest or surrender before the learned court below within a period of four weeks from today, the petitioner, above-named, 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 the learned Special Judge, Excise, Motihari, East Champaran in connection with Mufassil P.S. Case No. 135 of 2020, subject to the conditions laid down under Section 438(2) of the Cr. P.C.

(Mohit Kumar Shah, J)

Tiwary/-

