

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 38512 of 2020

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Saryu Giri @ Saryug Giri, aged 40 years (M), son of Late Amar
Giri, resident of village-Rampur Khajuriya Chauk, P.S.
Dumariyaghat, District-East Champaran

----- Petitioner

Versus

The State of Bihar

----- Opposite Parties

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Appearance:-

For the Petitioner:- Mr. Umesh Chandra Verma, Advocate

Mr. Abhishek Kumar, Advocate

For the State :- Mr. Bal Mukund Prasad Sinha, 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. Bal Mukund Prasad Sinha, learned A.P.P. for the State.

The petitioner apprehends his arrest in connection with Excise Case No. 299 of 2020 for the offence registered U/s. 30(a) of the Bihar Prohibition and Excise Act, 2016.

The allegation is regarding recovery of 10 litres of illicit Chulahi liquor from the shop of the petitioner.

The learned counsel for the petitioner has submitted that the petitioner is innocent and he has been falsely implicated in the present case. The learned counsel for the petitioner has further submitted that since the illicit liquor has not been recovered from inside the shop of the petitioner, no offence is made out under the provisions of the Bihar Prohibition and Excise Act, 2016.

Per contra, the Ld. A.P.P. for the State Shri. Bal Mukund Pd. Sinha 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 prima facie no case is made out under the provisions of the Bihar Prohibition and Excise Act,

2016, as far as consideration of the present bail petition is concerned, inasmuch as there is no allegation of recovery of illicit liquor from within the shop of the petitioner, 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, hence, I deem it fit and proper to admit the petitioner to the privilege of anticipatory bail.

Accordingly, the petitioner, above named, is directed to be released on anticipatory bail in the event of his arrest/surrender before the court below within a period of eight weeks from today, on furnishing bail bond of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of learned 13th Additional Sessions Judge-cum-Special Judge, Excise, Motihari, East Champaran in connection with Excise Case No. 299 of 2020 subject to the conditions as stipulated under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

S.Sb/-