

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39053 of 2020

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Sudhir Chaudhary @ Sudhir Kumar, aged about 25 years (M)
son of Umesh Chaudhary, resident of village-Daulatpur, P.S.
Hajipur Sadar, District-East Champaran

----- Petitioner

Versus

The State of Bihar

----- Opposite Parties

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Appearance:-

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

For the State :- Mr. Ashok Kumar, APP

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CORAM:HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

- 2. 01.06.2021** 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.

Heard the learned counsel for the petitioner and
Shri. Ashok Kumar, learned A.P.P. for the State.

The petitioner apprehends his arrest in connection with C2A Case No. 112 of 2019 for the offence registered under Section 30(a) of the Bihar Prohibition and Excise Act.

The allegation is regarding recovery of 73 litres of illicit liquor from a hut situated behind the shop of the petitioner, which is stated to be in possession of the petitioner.

The learned counsel for the petitioner has submitted that the petitioner is innocent, has been falsely implicated in the present case and he is having a clean antecedent. The learned counsel for the petitioner has further submitted that the hut in question is an open hut, hence plantation of the illicit liquor cannot be ruled out.

Per contra, the learned A.P.P. for the State Shri Ashok Kumar has vehemently opposed the prayer for bail and has submitted that since there is direct allegation of recovery of illicit liquor from the hut of the petitioner, the bar under Section 76 (2) of the Bihar Prohibition and Excise Act, 2016 shall come into force in the present case, consequently, the present petition is not maintainable.

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 since the illicit liquor has been alleged to have been recovered from a hut stated to be in possession of the petitioner, the bar under Section 76(2) of the Bihar Prohibition and Excise Act, 2016 shall come into play, consequently the present petition for grant of anticipatory bail is not maintainable, thus the same is dismissed, however, with a direction to the learned court below to consider the prayer of the petitioner for grant of regular bail sympathetically and dispose of the same, as and when filed, on the very same day of filing of the same.

The petition stands disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

S.Sb/-