

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 38522 of 2020

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Mukesh Choudhary @ Mukesh Kumar Choudhary @ Chunnu Choudhary, aged approx. 39 years, Male, son of Shri Amresh Choudhary @ Umesh Choudhary, resident of village-Nimachak Haider, P.S. Chakmehsi, District- Samastipur

----- Petitioner

Versus

The State of Bihar

----- Opposite Parties

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Appearance:-

For the Petitioner:- Mr. Ajay Kumar Thakur, Advocate

For the State :- Mr. Bhanu Pratap Singh, 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 Shri. Ajay Kumar Thakur, the learned counsel for the petitioner and Shri. Bhanu Pratap Singh, learned A.P.P. for the State.

The petitioner apprehends his arrest in connection with Chakmehsi P.S. Case No. 141 of 2020 for the offence registered under Sections 272 and 273 of the Indian Penal Code and Sections 47 and 30(a) of the Bihar Prohibition and Excise Act, 2016.

The allegation is regarding recovery of 1853 bottles of illicit liquor from a vehicle. It is also alleged that a secret information was received, to the effect that the petitioner was unloading the illicit liquor from a pick up van. It has also been stated in the FIR that when the Police had reached the alleged place of occurrence, the accused persons had fled away, however, there was no source of identification of the accused persons.

The learned counsel for the petitioner Shri Ajay Kumar Thakur 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 neither the petitioner has been arrested from the spot nor he has been identified to be the person fleeing away from the spot nor the pickup van in question belongs to the

petitioner, hence no case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016, hence the bar under Section 76 (2) of the Bihar Prohibition and Excise Act, 2016 shall not be an impediment for grant of bail to the petitioner herein.

Per contra, the Ld. A.P.P. for the State Shri. Bhanu Pratap Singh 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 neither the petitioner has been arrested from the spot nor he has been identified to be the person fleeing away from the spot nor the pickup van in question belongs to 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, thus, 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/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional District Judge-II-cum-Special Judge Excise, Samastipur in connection with Chakmehsi P.S. Case No. 141 of 2020 subject to the conditions as stipulated under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

S.Sb/-