

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39032 of 2020
Arising out of Excise Case No. 163, year- 2020, District Samastipur

Aarsoo Mahto @ Arsumahto, Male, aged about 52 years, S/O Late Ram Charan Mahto, R/O village- Basudeopur ward no. 5, P.S. Kalyanpur, District Samastipur..

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opp. Party/s

Appearance :

For the Petitioner/s : Mr. Pankaj Kumar, Adv.

For the Opp. Party/s : Mr. Chandra Bhushan Prasad, APP

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 lock-down on account of COVID 19 Pandemic, requiring social distancing.

Heard the learned counsel for the petitioner and Mr. Chandra Bhushan Prasad, the learned APP appearing for the State.

The petitioner apprehends his arrest in connection with Excise Case No. 163 of 2020 for the offence punishable under section 30(a) of Bihar Prohibition and Excise Act, 2016.

The allegation is regarding recovery of 18.75 litres of illicit liquor from a cattle shed situated near the house of the petitioner.



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 the cattle shed in question is in an abandoned state and the petitioner has got no connection with it and moreover, neither any illicit liquor has been recovered from the conscious possession of the petitioner nor from his house, hence the provisions of the Bihar Prohibition and Excise Act, 2016 are not applicable in the present case.

Per contra, the learned APP appearing for the State, Shri Chandra Bhushan Prasad, has vehemently opposed the prayer for anticipatory bail, made by the petitioner.

Having regard to the facts and circumstances of the case, considering the submissions made by the Ld. Counsel for the parties and taking into account the materials available on record, this Court finds that neither the illicit liquor has been recovered from the conscious possession of the petitioner nor from his house, however, the same has been recovered from a cattle shed which is in an abandoned state, with which the petitioner claims to be having no connection, hence, prima facie this Court finds that no case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016, as far as consideration

t anticipatory 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 grant of anticipatory bail to the petitioner herein, consequently, I deem it fit and proper to admit the petitioner herein 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 learned Additional District Judge 2nd cum Special Judge, Excise Act, Samastipur in connection with Excise Case No. 163 of 2020, subject to the conditions as laid down under section 438(2) of the Cr. P.C.

(Mohit Kumar Shah, J)

Tiwary/-

