

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.39081 of 2020

=====

Pinku Patel @ Tinku Patel @ Pradep Patel, aged about 24 years,
Gender-Male, son of Bir Bahadur Patel, R/o village-Rulahi,
Ward No. 10, P.S. Manjhaulia, District-West Champaran,
Bihar-845454

----- Petitioner

Versus

The State of Bihar

----- Opposite Parties

=====

Appearance:-

For the Petitioner:- Mr.Nishnat Sinha, Advocate

For the State :- Mr. Harendra 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 situation on account of COVID 19 Pandemic, requiring social distancing.

Heard the learned counsel for the petitioner and Shri. Harendra Prasad, learned A.P.P. for the State.

The petitioner apprehends his arrest in connection with Manjhaulia P.S. Case No. 501 of 2020 for the offence registered under Sections 30(a) and 37(b) of the Bihar Prohibition and Excise Act.

The allegation is regarding recovery of five litres of illicit liquor from a place situated near the poultry farm 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 neither the illicit liquor has been recovered from the conscious possession of the petitioner nor from within the poultry farm of the petitioner, hence no offence is made out under the provisions of the Bihar Prohibition and Excise Act, 2016.

Per contra, the learned A.P.P. for the State Shri. Harendra Prasad, 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 the illicit liquor has not been recovered either from the conscious possession of the petitioner or from within his poultry farm, hence prima facie this Court is of the view that 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, thus the bar under Section 76(2) of the Act, 2016 would not be an impediment for the purpose of grant of anticipatory bail to the petitioner herein, 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 four

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 Special Judge, Excise, Bettiah, West Champaran in connection with Manjhaulia P.S. Case No. 501 of 2020 subject to the conditions as stipulated under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

S.Sb/-