

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38538 of 2020

Arising Out of PS. Case No.-180 Year-2020 Thana- JAMOBABAZAR District- Siwan

PRAKASH CHAUDHARY S/o Shivanath Chaudhary R/o Village- Jamo
Pokhra, P.S.- Jamo Bazar, District- Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Prashant Kumar

For the Opposite Party/s : Mr.Bharat Lal

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.

Heard the learned counsel for the petitioner and Sri Bharat Lal, the learned A.P.P. for the State.

This is an application for grant of anticipatory bail in connection with Jamo Bazar 180 of 2020 registered for the offences punishable under Sections 272, 273, 308 of Indian Penal Code and 30(a) of Bihar Prohibition and Excise Act, 2016.

The allegation is regarding recovery of 4 liters of illicit liquor and it is apparent from the seizure list that the same has been recovered from Jamo pond.

The learned counsel for the petitioner has



submitted that the petitioner is innocent and has been falsely implicated in the present case. It is further submitted that the petitioner is an accused in one other case but he is on bail in the said case. Lastly, it is submitted that there is no allegation of recovery of illicit liquor, either from the house of the petitioner or from his conscious possession and in fact the same has been recovered from the village pond, hence no case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016.

Per contra, the learned APP for the State 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 admittedly the illicit liquor has been recovered from the village pond and not from the house of the petitioner, hence *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, hence the bar under Section 76(2) of the said Act, 2016 shall not be an impediment for grant of anticipatory bail to the petitioner herein. Accordingly, the abovenamed petitioner, in the event of



his arrest or surrender before the court below within a period of eight weeks from the date of receipt/ production of a copy of this order, is directed to be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Rs. Ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge II-cum-Special Judge, Excise, Siwan in connection with Jamo Bazar PS case no. 180 of 2020, subject to the conditions as laid down under Section 438(2) of Code of Criminal Procedure.

(Mohit Kumar Shah, J)

rinkee/-

U		T	
---	--	---	--

