

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39058 of 2020

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Jitendra Prasad Kamkar, aged about 40 years, Male S/o Late
Dhanraj Prasad, R/o Chandraha, Rupawalia, P.S. Bathuwariya,
District-West Champaran, Bihar

----- Petitioner

Versus

The State of Bihar

----- Opposite Parties

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Appearance:-

For the Petitioner:- Mr. B.K. Pandey, Advocate

For the State :- Dr. Ajeet 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

Dr. Ajeet Kumar, learned A.P.P. for the State.

The petitioner apprehends his arrest in connection with Chautarwa Bathuwariya P.S. Case No. 238 of 2020 for the offence registered under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

The allegation is regarding recovery of four litres of illicit liquor from the house of the petitioner.

The learned counsel for the petitioner has submitted that the petitioner is innocent and he has been falsely implicated in the present case. It is submitted that the petitioner was not present at his house at the time when alleged recovery of illicit liquor was made, hence it cannot be ruled out that the illicit liquor was planted in the house of the petitioner.

Per contra, the learned A.P.P. for the State Dr. Ajeet Kumar 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 there is direct allegation of recovery of illicit liquor from the house of the petitioner, hence the bar under Section 76(2) of the Bihar Prohibition and Excise Act, 2016 shall come into play and would preclude this Court from grant of anticipatory bail to the petitioner herein, hence the present petition stands dismissed as not maintainable.

Nonetheless, this Court finds that since trivial quantity of illicit liquor has been recovered from the house of the petitioner, I deem it fit and proper to direct the learned court below to consider the case of the petitioner for grant of regular bail sympathetically, as and when the same is filed, and dispose of the same on the very same day of filing of the same.

The present petition stands disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

S.Sb/-