

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39010 of 2020

Arising Out of PS. Case No.-398 Year-2020 Thana- JAKKANPUR District- Patna

RAJU S/o Md. Ruzaur Rahman R/o Mohalla- Harun Nagar, Colony Sector
No. 1, P.S.- Phulwari Sharif, District- Patna Petitioner/s
Versus

The State of Bihar Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shovendra Kumar
For the Opposite Party/s : Mr.Binod Kumar

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 Binod Kumar, the learned A.P.P. for the State.

This is an application for grant of anticipatory bail in connection with Jakkanpur PS case no. 398 of 2020 registered for the offences punishable under Section 273 of Indian Penal Code and 30(a), 36, 41 of Bihar Prohibition and Excise (Amendment) Act, 2018.

The case of the prosecution is regarding recovery of huge quantity of illicit liquor from a bus standing near the turning inside gate no. 1 of Mithapur Bus Stand and from the spot, the co-accused person namely Alamgir Alam was apprehended who disclosed that the illicit liquor belongs to the



petitioner.

The learned 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 neither the illicit liquor has been recovered from the conscious possession of the petitioner nor from the premises of the petitioner, 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 the illicit liquor seized by the police has not been recovered from the conscious possession of the petitioner and moreover, the petitioner is having a clean antecedent, apart from the fact that no cogent material is available on record, except the disclosure made by the co-accused person, to connect the petitioner with the alleged occurrence, thus *prima facie*, no case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016,



consequently 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 herein. Thus, I deem it fit and appropriate to admit the petitioner to the privilege of anticipatory bail.

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 Special Judge, Excise, Patna in connection with Jakkanpur PS case no. 398 of 2020 subject to the conditions as laid down under Section 438(2) of Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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