

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.39072 of 2020

**Arising out of P.S. Case No. 181, year- 2020, Thana- Kalyanpur District
East Champaran, Motihari**

Chandan Kumar, Male, aged about 26 years, S/O Bachan Sah R/O village-
Parasuni Doby P.S. Sahebganj, District Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opp. Party/s

Appearance :

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

For the Opp. Party/s : Mr. Gauri Shanker Gupta, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

2 03-06-2021

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 parties.

The petitioner apprehends his arrest in connection with Kalyanpur P.S. Case No. 181 of 2020 for the offence punishable under sections 272, 273, 414/34 of the Indian Penal Code and section 30(a) of the Bihar Prohibition and Excise Act, 2016.

The police is stated to have received information that the villagers have apprehended one person along with a Maruti Suzuki Wagon R vehicle, on suspicion that huge quantity



of illicit liquor is being carried in the said vehicle, whereafter the police party had reached at the alleged place of occurrence and had recovered 250.20 litres of illicit foreign liquor from the said vehicle as also had taken into custody the co-accused person, who had been apprehended by the villagers, however, some accused persons had managed to flee away and the petitioner is alleged to be one of them.

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, by referring to paragraph no. 9 of the present petition, that the vehicle in question does not belong to the petitioner and moreover, the illicit liquor has not been recovered from the conscious possession of the petitioner, hence no offence is made out under the provisions of the Bihar Prohibition and Excise Act, 2016.

Per contra, the learned APP appearing for the State, Shri Gauri Shankar Gupta has vehemently opposed the prayer of the petitioner for grant of anticipatory bail.

Having regard to the facts and circumstances of the case, considering the submissions made by the parties and taking into ac



ials available on record as also

considering the fact that the car in question from which illicit liquor has been recovered, does not belong to the petitioner, this Court finds that 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, 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, hence, 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 eight 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 VII Addl. Sessions Judge cum Spl. Judge Excise, East Champaran, Motihari in connection with Kalyanpur P.S. Case No. 181 of 2020, subject to the conditions as laid down under section 438(2) of the Cr. P.C.

(Mohit Kumar Shah, J)

Tiwary/-

