

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 39551 of 2020

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Gadan Chaudhary @ Krish Raj (Male), aged about 26 years, son of Shankar Chaudhary @ Shiv Shankar Chaudhary @ Shiva shankar Chaudhary, resident of village-Bazidpur, Police Station- Sheikhpura and District-Sheikhpura

----- Petitioner

Versus

The State of Bihar

----- Opposite Parties

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Appearance:-

For the Petitioner :- Mr. Manish Kumar No. 2 , Advocate

For the State :- Mr. Ashok Kumar, APP

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CORAM:HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2. **02.06.2021** 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 Ashok Kumar, learned A.P.P. for the State.

The petitioner apprehends his arrest in connection with Excise Case No. 233 of 2020 arising out of Sheikhpura P.S. Case No. 372 of 2020 for the offence registered under Sections 272 and 273 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

The allegation is regarding recovery of 60 litres of illicit liquor from a dilapidated house situated behind the house of one Sukhru Chaudhary.

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 nor the dilapidated house nor the place in question from where the illicit liquor has been seized, belongs to 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 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 as also considering the fact that neither the illicit liquor has been recovered from the conscious possession of the petitioner nor the place from where the same has been recovered belongs to the petitioner, this Court finds that prima facie no case is made out, as far as consideration of the present bail petition is concerned, under the provisions of the Bihar Prohibition and Excise Act, 2016, hence the bar under Section 76(2) of the Act, 2016 shall not be an impediment for the purposes of grant of anticipatory bail to the petitioner, thus 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 eight 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 2nd Additional District and Sessions Judge, Sheikhpura in connection with Excise Case No. 233 of 2020 arising out of Sheikhpura P.S. Case No. 372 of 2020 subject to the conditions as stipulated under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

S.Sb/-