

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.39543 of 2020

**Arising out of P.S. Case No. 364, year- 2020, Thana- Basantpur District
Siwan**

Hakim Kumar Sah @ Hakim Sah, Male, aged about 33 years, S/O Basawan
Sah R/O village- Musepur, Gopalpur, P.S. Basantpur, District Siwan.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opp. Party/s

Appearance :

For the Petitioner/s : Mr. Bijay Prakash Singh, Adv.

For the Opp. Party/s : Ms. Renu Kumari, 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 lock-down on account of COVID 19 Pandemic, requiring social distancing.

Heard the learned counsel for the parties.

The petitioner apprehends his arrest in connection with Basantpur P.S. Case No. 364 of 2020 for the offence punishable under sections 272, 273, 308 of the Indian Penal Code and section 30(a) of Bihar Prohibition and Excise Act, 2016.



The allegation is regarding recovery of one litre illicit liquor from the motorcycle of 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 the illicit liquor has not been recovered from the conscious possession of the petitioner.

Per contra, the learned APP for the State, Ms. Rina Kumari 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 Ld. Counsel for the parties and taking into account the materials available on record, this Court finds that there is direct allegation of recovery of illicit liquor from the motorcycle of the petitioner, hence the bar under section 76(2) of the Bihar Prohibition and Excise Act, 2016 shall come into play, thus the present petition is not maintainable, hence, the same is dismissed.

Nonetheless, this Court directs the learned court below to consider the regular bail petition of the petitioner, as and when filed off on the very same day of filing



of the same by taking a sympathetic view inasmuch as, firstly, the petitioner is having a clean antecedent and secondly, trivial quantity of illicit liquor has been recovered.

(Mohit Kumar Shah, J)

Tiwary/-

