

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6235 of 2021

Arising Out of PS. Case No.-394 Year-2020 Thana- CHAPRA TOWN District- Saran

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SANJAY KUMAR CHOUDHARY Son of Late Jay Ram Chaudhary Resident
of Village-Bichla Telpa, P.S.-Chapra Town, District-Saran

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Udit Narayan Singh, Advocate
	:	Mr. Gajendra Kr. Singh, Advocate
For the Opposite Party/s	:	Ms. Anita Kumari Singh, APP

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 23-11-2021 Heard the learned counsel for the petitioner and

Ms. Anita Kumari Singh, the learned A.P.P. for the State.

This is an application for grant of anticipatory bail
in connection with Chapra Town PS case no. 394 of 2020
registered for the offences punishable under Sections 30(a),
41(i)(ii) of Bihar Prohibition and Excise Act, 2016.

The allegation is regarding recovery of 30 liters of
illicit liquor from a motorcycle which was being driven by the
co-accused person namely Vikash Kumar who has alleged that
the motorcycle belongs to the petitioner herein.

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.



It is further submitted that though the motorcycle in question belongs to the petitioner but the same was being driven by his co-villager Vikash Kumar and the illicit liquor has been recovered from the said motorcycle while the said co-accused person Vikash Kumar was riding the said motorcycle, hence it is submitted that the alleged recovery of illicit liquor cannot be attributed to the petitioner herein.

Per contra, the learned APP for the State has vehemently opposed the prayer of 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 firstly finds that the petitioner has a clean antecedent and secondly, the illicit liquor has neither been recovered from the house of the petitioner nor from his conscious possession but from his motorcycle which was in fact, being driven by the co-accused namely Vikash Kumar, at the time of the alleged occurrence, hence no *prima facie* case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the Act, 2016), as far as the petitioner is concerned, thus the bar under Section 76(2) of the said Act, 2016



shall not be an impediment for the purposes of grant of 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 six 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 2nd Additional Sessions Judge-cum-Special Judge (Excise), Saran in connection with Chapra Town PS case no. 394 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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