

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6437 of 2021

Arising Out of PS. Case No.-207 Year-2020 Thana- GOVERNMENT OFFICIAL COMP.
District- Siwan

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1. MANDEO YADAV Son of shankar Yadav Resident of Village - Siyari, P.s.-
Muffasil, Distt.- Siwan.
 2. Sagar Yadav Son of shankar Yadav Resident of Village - Siyari, P.s.-
Muffasil, Distt.- Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Satyam Shivam Sundaram

For the Opposite Party/s : Mr.A.G.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 23-11-2021 Heard the learned counsel for the petitioners the
learned A.P.P. for the State.

This is an application for grant of anticipatory bail
in connection with Excise case no. CIII207 of 2020 registered
for the offences punishable under Section 30(a) of Bihar
Prohibition and Excise Act, 2016 (hereinafter to be referred to
as “Act 2016”).

At the outset, the learned counsel for the
petitioners has submitted that the petitioner no. 1 has already
been arrested.

Accordingly, the present petition has become
infructuous, as far as petitioner no. 1 is concerned.



The allegation is regarding recovery of 180 liters of illicit countrymade liquor from the bushes situated behind the house 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 petitioner no. 1 has already been arrested and for the same offence, petitioner no. 2 has also been implicated in the present case, however the fact is that neither the illicit liquor has been recovered from the conscious possession of the petitioner nor from his house but the same has been recovered from the bushes situated behind the house 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 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 finds that illicit liquor has neither been recovered from the conscious possession of the petitioner nor



from his house but the same has been recovered from the bushes situated behind the house of the petitioner, hence no case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016, thus the bar under Section 76(2) of the said Act, 2016 shall not be an impediment for the purposes of grant of anticipatory bail to the petitioner, hence I deem it fit and appropriate to admit the petitioner no. 2 to the privilege of anticipatory bail. Accordingly, petitioner no. 2, 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 Additional Sessions Judge 2nd-cum-Special Judge, Excise, Siwan in connection with Excise case no. CIII207 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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