

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6217 of 2021

Arising Out of PS. Case No.-72 Year-2020 Thana- CHENARI District- Rohtas

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AJAY KUMAR CHAUDHARY @ AJAY KUMAR Son of Badhu Chaudhary
Resident of Village - Tamadhi, P.S.- Sonahan, District - Kaimur at Bhabua.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ashutosh Tripathy, Advocate

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

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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 the

learned A.P.P. for the State.

This is an application for grant of anticipatory bail

in connection with Chenari PS case no. 72 of 2020 registered for

the offences punishable under Section 30(A) of Bihar

Prohibition and Excise Act, 2016.

The informant along with police force is stated to

be on patrolling duty and during the course thereof, they saw a

person coming on a motorcycle, who upon seeing the police

party, tried to flee away but was apprehended by the police force

and upon interrogation, he disclosed his name as Gautam Kr.

Choudhary, whereafter the motorcycle was searched and 04

liters of illicit *mahua* liquor was recovered.

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 the motorcycle in question belongs to the petitioner but the same was being driven by his friend namely Gautam Kr. Choudhary and if at all, anyone is responsible for the illicit liquor being carried on the motorcycle, it is the said Gautam Kr. Choudhary and not the petitioner, hence as far as the petitioner is concerned, no offence is made out under the provisions of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the 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 the main thrust of allegations levelled by the informant is against the co-accused person namely Gautam Kr. Choudhary who was driving the motorcycle at the time of search and seizure made by the police, during the course whereof, four liters of illicit *mahua* liquor was recovered and as far as the petitioner is concerned, his role is limited only to being the owner of the motorcycle in question, however neither



any recovery of illicit liquor has been made from the conscious possession of the petitioner nor he was driving the vehicle at the time of recovery of illicit liquor, hence *prima facie* no case is made out against the petitioner, under the provisions of the 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 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 District & Sessions Judge-cum-Special Judge (Excise), Rohtas at Sasaram in connection with Chenari PS case no. 72 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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