

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL MISCELLANEOUS No.6480 of 2021**

Arising Out of PS. Case No.-130 Year-2020 Thana- GUTHANI District- Siwan

CHANDRAMA KUMAR RAM S/o Sudarshan Ram Resident of Vill.- Selaur,  
P.S.- Guthani, Distt.- Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Bijay Prakash Singh  
For the Opposite Party/s : Mr.A.G.

**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 Guthani PS case no. 130 of 2020 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as “Act, 2016”).

The allegation is regarding recovery of 10.425 liters of illicit liquor from the motorcycle of the petitioner, although the said motorcycle was being driven by co-accused Durga Kumar at the time of search and seizure and the petitioner was not present at the spot.

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 on the date and time of occurrence, the motorcycle had been borrowed by the friend of the petitioner and on the said date and time, the motorcycle was being driven by the said Durga Kumar. It is further submitted that since the recovery of 10.425 liters of illicit liquor was made from the motorcycle, at the time the same was being driven by the co-accused person namely Durga Kumar, the liability of the alleged recovery of illicit liquor cannot be saddled on the petitioner, hence the provisions of the Bihar Prohibition and Excise Act, 2016 are not attracted in the present case.

*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 firstly, the petitioner is having a clean antecedent and secondly, at the time when the illicit liquor was recovered from the motorcycle in question, the same was being driven by the friend of the petitioner namely Durga Kumar and there has been no recovery of illicit liquor either



from the conscious possession of the petitioner or from his house, hence as far as consideration of the present bail petition is concerned, *prima facie* 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 bail to the petitioner herein, as such 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 2<sup>nd</sup> Additional District and Sessions Judge -cum-Special Judge (Excise), Siwan in connection with Guthani PS case no. 130 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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