

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6230 of 2021

Arising Out of PS. Case No.-71 Year-2020 Thana- PAROO District- Muzaffarpur

MANOJ KUMAR RAI @ BHIKHARI RAI @ MANOJ KUMRA SON OF
KAPAL RAY @ PAPPAL RAI RESIDENT OF VILLAGE- RATWARA
HATHU, P.S- PAROO, DISTT- MUZAFFARPUR

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dr. Manoj Kumar, Advocate

For the Opposite Party/s : Mr.Ashok Kumar, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 23-11-2021 Heard the learned counsel for the petitioner and Sri
Ashok Kumar, the learned A.P.P. for the State.

This is an application for grant of anticipatory bail
in connection with Paroo PS case no. 71 of 2020 registered for
the offences punishable under Sections 30, 30(a) of Bihar
Prohibition and Excise Act, 2016.

The allegation is regarding recovery of 130 liters of
illicit foreign liquor from an open space (*bathan*) situated at a
distance from 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 alleged illicit liquor has been recovered from an open space situated at a distance from the house of the petitioner, hence the petitioner cannot be saddled with the liability of recovery of the illicit liquor, inasmuch as the said open space is accessible to anyone. It is further submitted that neither the illicit liquor has been recovered from the conscious possession of the petitioner nor from his house, hence 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 illicit liquor has neither been recovered from the conscious possession of the petitioner nor from his house rather it has been recovered from an open place, hence it cannot be said that the petitioner is the owner of the said illicit liquor, thus *prima facie* no case is made out as far as consideration of the present bail petition is concerned, under the provisions of the Bihar Prohibition and Excise Act, 2016, hence 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 Special Judge, Excise Act, Muzaffarpur, in connection with Paroo PS case no. 71 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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