

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7333 of 2021

Arising Out of PS. Case No.-309 Year-2020 Thana- DEEPNAGAR District- Nalanda

SANJAY KUSHWAHA S/o Kailash Mahto R/o Village- Kanchanpur, P.S.-
Deep Nagar, District- Nalanda

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Amresh Kumar Sinha, Adv.

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 Deep Nagar P.S. Case No.
309 of 2020 registered for the offence punishable
under Section 30(a) of the Bihar Excise Act, 2016.

The allegation is regarding recovery of 150.6
liters of illicit liquor from the boring house of the
petitioner.

The learned counsel for the petitioner submits
that the petitioner is innocent, he has been falsely
implicated in the present case and he is having a
clean antecedent. The learned counsel for the



petitioner, by referring to paragraph no. 8 of the present petition, has submitted that the place from where the recovery has been made does not belong to 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 for 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 fact that firstly, the petitioner is having a clean antecedent and secondly, he has made a categorical statement to the effect that the recovery of illicit liquor has not been made from a place belonging to him, this Court finds that prima facie, no case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016, hence, the bar under Section 76(2) of the Bihar Prohibition and Excise Act, 2016 shall not be an impediment for this Court to grant anticipatory bail to the petitioner herein.



Accordingly, the petitioner is directed to be enlarged on anticipatory bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned 3rd Additional Session Judge cum Special Judge (Excise), Nalanda at Bihar Sharif in connection with Deep Nagar P.S. Case No. 309/2020, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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