

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7309 of 2021

Arising Out of PS. Case No.-33 Year-2020 Thana- KIUL District- Lakhisarai

1. SURAJ KUMAR S/O LATE RAM KUMAR SAO Resident Of Village Ramshir, P. S. - Kiul, District - Lakhisarai.
2. Raja Mandal S/O Anandi Rawat Resident Of Village and P.S. - Gidhour, District - Jamui.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Amrendra Kumar, 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 petitioners and the learned A.P.P. for the State.

At the outset, the learned counsel for the petitioners submits that the petitioner no. 1 has already been arrested, hence, the present petition qua the petitioner no. 1 has become infructuous.

Accordingly, the present petition qua the petitioner no. 1 stands dismissed as not pressed.

This is an application for grant of anticipatory bail in connection with Kiul P.S. Case No. 33 of 2020 registered for the offence punishable under Sections 272, 273 of the Indian Penal Code and Section 30(a) of the Bihar Excise Prohibition Amendment Act.



The allegation is regarding recovery of illicit liquor from a motorcycle and the co-accused person, namely, Nitish Kumar, was arrested. Upon interrogation, the said Nitish Kumar is stated to have disclosed the name of the petitioners as the persons, who had fled away.

As far as the petitioner no. 2 is concerned, the learned counsel for the petitioner no. 2 has submitted that he is innocent, he has been falsely implicated in the present case and he is having a clean antecedent. The learned counsel for the petitioner no. 2 has submitted that admittedly, the motorcycle in question belongs to the co-accused person, namely, Nitish Kumar, who was arrested from the spot and the illicit liquor was seized, however, as far as the petitioner no. 2 is concerned, he has got no role to play in the alleged incident as is apparent from the records, hence, no offence 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 for bail.



Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioner no. 2 and taking into account the materials available on record, this Court finds that admittedly, the illicit liquor was recovered from the motorcycle, belonging to the co-accused person, namely, Nitish Kumar, who was also apprehended from the spot by the police and upon interrogation, he had disclosed the name of the petitioners although the petitioner no. 2 has got no role to play in the alleged incident inasmuch as neither the motorcycle belongs to the petitioner no. 2 nor any illicit liquor has been recovered from him, hence, 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 come in the way of this Court to grant anticipatory bail to the petitioner no. 2.

Accordingly, the petitioner no. 2 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 ADJ 2nd, cum Special Judge (Excise), Lakhisarai in connection with Kiul P.S. Case No. 33/2020, 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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