

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8591 of 2021

Arising Out of PS. Case No.-135 Year-2018 Thana- CHANDI District- Bhojpur

1. SHIVJEE SINGH Son of LATE GOPI SINGH Resident of Village - Ramdihal Tola, Police Station - Chandi, District - Bhojpur.
2. Ramesh Singh Son of Late Yadu Nandan Singh Resident of Village - Ramdihal Tola, Police Station - Chandi, District - Bhojpur.
3. Hari Nandan Singh Son of Late Seth Singh Resident of Village - Ramdihal Tola, Police Station - Chandi, District - Bhojpur.
4. Chunu Singh Son of Hari Nandan Singh Resident of Village - Ramdihal Tola, Police Station - Chandi, District - Bhojpur.
5. Raj Kumar Singh Son of Late Suresh Singh Resident of Village - Ramdihal Tola, Police Station - Chandi, District - Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Prabhat Kumar Singh, Advocate

For the Opposite Party/s : Dr. Mrityunjay Kr. Gautam, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 26-11-2021 Heard the learned counsel for the petitioner and Dr.
Mrityunjay Kr. Gautam, the learned A.P.P. for the State.

This is an application for grant of anticipatory bail in connection with Chandi PS case no. 135 of 2018 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act, 2016 (hereinafter to be referred to as the “Act 2016”).

The allegation is regarding recovery of 40 liters of illicit coutrymade liquor from an orchard.

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 neither the orchard, from where the illicit liquor has been recovered, belongs to the petitioner nor the illicit liquor belongs to the petitioner and the petitioner has been roped in the present case merely on surmises and conjectures, hence it is submitted that no offence is made out under the provisions of 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 *prime facie*, no case is made out under the provisions of the Act, 2016, as far as consideration of the present anticipatory bail petition is concerned, in view of the fact that the illicit liquor has been recovered from an orchard, which does not belong to the petitioner and moreover, the petitioner has been roped in the present case merely on surmises and conjectures, 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 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 4th Additional district & Sessions Judge-cum-Special Judge, Excise Act, Bhojpur at Ara in connection with Chandi PS case no. 135 of 2018 subject to the conditions as laid down under Section 438(2) of Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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