

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10214 of 2021**

Arising Out of PS. Case No.-284 Year-2020 Thana- AURANGABAD TOWN District-
Aurangabad

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UMESH BHUIYAN S/o Suresh Bhuiyan Resident of Mahavir Nagar, Karma
Road, P.S. - Town, District - Aurangabad.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bhaskar Shankar, Advocate
For the Opposite Party/s : Mr. Ashok Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 26-11-2021 Heard the learned counsel for the petitioner and Shri
Ashok Kumar, learned A.P.P. for the State.

The petitioner apprehends his arrest in connection with
Aurangabad Town P.S. Case No. 284 of 2020 for the offence
registered under Section 30(a) of the Bihar Prohibition and
Excise Act, 2016.

The allegation is regarding recovery of 102 litres of illicit
country made liquor from the house of the petitioner as also
from a sand heap in front of the house of the petitioner.

The learned counsel for the petitioner has submitted that
the petitioner is innocent, he has been falsely implicated in the
present case and is having a clean antecedent. It is further
submitted that the petitioner is a first time offender, hence a



sympathetic consideration may be made.

Per contra, Shri Ashok Kumar, the learned A.P.P. for the State has vehemently opposed the prayer for bail and has submitted that since there is a direct allegation against the petitioner the present anticipatory bail petition is not maintainable on account of the bar under Section 76(2) of the Bihar Prohibition and Excise Act, 2016.

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 since the illicit liquor has been recovered from the house of the petitioner, it cannot be said that no offence is made out under the provisions of the Bihar Prohibition and Excise Act, 2016, thus this Court finds that the present anticipatory bail petition is not maintainable, hence the same stands dismissed. However, liberty is granted to the petitioner to surrender before the learned court of Additional Sessions Judge-II-cum-Special Judge, Excise, Aurangabad in connection with Aurangabad Town P.S. Case No. 284 of 2020 and seek regular bail.

It is needless to state that in case the petitioner surrender before the learned court below within a period of four weeks



from today, the learned court below shall consider the case of the petitioner sympathetically in view of the fact that he is a first time offender and dispose off the bail petition of the petitioner for grant of regular bail on the very same day of filing of the same.

(Mohit Kumar Shah, J)

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