

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9281 of 2022**

Arising Out of PS. Case No.-334 Year-2020 Thana- MOHANIYA District- Kaimur (Bhabua)

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AMIT MALIK @ AMIT JATT @ AMIL MALICK @ PRADEEP MALICK
SON OF MEHAR SINGH R/O VILLAGE- JASRANA, P.S.- JASRANA
(73), DISTRICT- SONIPAT (HARYANA)

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Arvind Kumar, Advocate

For the Opposite Party/s : Mr.Gauri Shankar Gupta, APP

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 06-06-2022 Heard the learned counsel for the petitioner and the
learned A.P.P. for the State.

The petitioner apprehends his arrest in connection with Mohania P.S. Case No. 334 of 2020 for the offence registered under Sections 467, 468, 471 and 420 of the Indian Penal Code and Sections 30(a), 36 and 41(1) of the Bihar Prohibition and Excise Act, 2016.

The allegation is regarding the police having received secret information that a truck loaded with huge quantity of illicit liquor is going to pass through the alleged place of occurrence, whereafter the police force had intercepted the truck and upon search, 7173.200 litres of illicit liquor was recovered. The driver of the said truck namely Sunil Kumar was arrested from the spot and he is stated to have disclosed the name of the



petitioner and others to be the person who had asked him to carry the illicit liquor in the truck from Haryana.

The learned senior counsel for the petitioner has submitted that the petitioner is innocent, has been falsely implicated in the present case and he is having a clean antecedent. The learned senior counsel for the petitioner has further submitted that neither the truck belongs to the petitioner nor the illicit liquor belongs to the petitioner nor the petitioner has been arrested from the spot. It has also been submitted that no recovery of illicit liquor has been made from the conscious possession of the petitioner. Lastly, it is submitted that since the name of the petitioner has transpired in the present case merely on the basis of confessional statement of the co-accused person namely Sunil Kumar, who was arrested from the spot, which in any view of the matter has got no evidentiary value in the eyes of law, no case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016, hence there is no impediment in granting anticipatory bail to the petitioner herein.

Per contra, the learned A.P.P. for the State has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case and taking into account the materials available on record,



this Court finds that since the petitioner has neither been arrested from the spot nor he is owner of the truck in question nor any illicit liquor has been recovered from his conscious possession, 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 Act, 2016 shall not be an impediment for grant of anticipatory bail to the petitioner herein.

Accordingly, the petitioner, above named, is directed to be released on anticipatory bail in the event of his arrest/surrender before the court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Session Judge-II-cum-Special Judge, Excise, Kaimur at Bhabua in connection with Mohania P.S. Case No. 334 of 2020 subject to the conditions as stipulated under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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