

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12354 of 2022

Arising Out of PS. Case No.-19 Year-2022 Thana- JAMHOR District- Aurangabad

NIKHIL KUMAR S/o Pramod Singh R/o village- Ukurmi, P.S.- Obra,
District- Aurangabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Krishna Prasad Singh, Sr. Advocate Mr. Bhaskar Shankar, Advocate
For the Opposite Party/s :	Mr. Lakshmi Kant Sharma, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

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

The petitioner apprehends his arrest in connection with Jamhore P.S. Case No. 19 of 2022 for the offence registered under Sections 30(a), 37(b)(c) of the Bihar Prohibition and Excise Act, 2016.

The informant and other police personnel are stated to have intercepted a tempo and upon search 19.515 litres of illicit liquor was recovered and two co-accused persons namely Nilay Pandey and Ranjeet Kumar were arrested. The said two arrested persons are stated to have disclosed the name of the petitioner and one another to be the persons who were engaged in the illicit business of liquor.

The learned senior counsel for the petitioner has



submitted that the petitioner is innocent and he has been falsely implicated in the present case. The learned senior counsel for the petitioner has submitted that neither the tempo in question belongs to the petitioner nor the petitioner was arrested from the spot nor any illicit liquor has been recovered from his conscious possession, hence it is submitted that no case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016. Lastly, it is submitted that the co-accused persons namely Nilay Pandey and Ranjeet Kumar have already been granted regular bail by a coordinate Bench of this Court vide order dated 26.05.2022 passed in Criminal Misc. No. 14826 of 2022 and vide order dated 25.05.2022 passed in Criminal Misc. No. 25.05.2022.

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 and taking into account the materials on record as also considering the fact that neither any illicit liquor has been recovered from the conscious possession of the petitioner nor the petitioner has been arrested from the spot nor the tempo in question belongs to the petitioner, this Court finds that prima facie no case is made out against the petitioner under the



provisions of the Bihar Prohibition and Excise Act, 2016 as far as the present bail petition is concerned, 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 Chief Judicial Magistrate-IX-cum-Special Judge, Excise-IIInd, Aurangabad in connection with Jamhore P.S. Case No. 19 of 2022 subject to the conditions as stipulated under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

S.Sb/-

U		T	
---	--	---	--

