

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.38181 of 2023

Arising Out of PS. Case No.-270 Year-2023 Thana- KANTI District- Muzaffarpur

RAHUL KUMAR SON OF RAVINDRA RAY RESIDENT OF VILLAGE-
LASKARIPUR, PS- KANTI, DISTT- MUZAFFARPUR

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Dr. Kumar Uday Pratap, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

- 2 28-07-2023 1. Heard the learned counsel for the petitioner and the learned A.P.P. for the State.
2. The petitioner apprehends his arrest in connection with Kanti P.S. Case No. 270 of 2023, registered for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.
3. The allegation is regarding recovery of 60.480 litres of illicit foreign liquor from behind the house of co-accused person, namely, Awadhesh Rai and upon being apprehended, the said Awadhesh Rai is stated to have disclosed the name of his accomplices including that of the petitioner herein.
4. The learned counsel for the petitioner has submitted that the petitioner is innocent, he has been falsely implicated in the present case and



he is having a clean antecedent. The learned counsel for the petitioner has further submitted that neither the illicit liquor has been recovered from the petitioner nor from his house, hence no case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the Act, 2016), thus the petitioner be granted the privilege of anticipatory bail.

5. Per contra, the learned A.P.P. for the State has vehemently opposed the prayer for grant of anticipatory bail.

6. Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the parties and taking into account the materials available on record as also considering the fact that no illicit liquor has been recovered from the conscious possession of the petitioner or from his house and the same has been recovered from behind the house of the co-accused person, namely, Awadhesh Rai, 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 contained in Section 76(2) of the Act, 2016 would not be an impediment for the purposes of grant of anticipatory bail to the petitioner herein, thus I deem it fit and proper to admit the petitioner herein to the privilege of anticipatory bail.

7. 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 the date of receipt/ production of a copy of this order, on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise, Court No-II, Muzaffapur in connection with Kanti P.S. Case No. 270 of 2023, subject to the conditions as stipulated under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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