

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38213 of 2023

Arising Out of PS. Case No.-186 Year-2022 Thana- SAHARGHAT District- Madhubani

ANAND CHAUDHARY S/O LAXMI CHAUDHARI R/O Vill. Karebas, PS.
Dumra, Dist. Sitamarhi

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shailendra Kumar Jha, Advocate

For the Opposite Party/s : Mr.Ashok Kumar Singh, 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 Saharghat P.S. Case No. 186 of 2022, registered for the offences punishable under Sections 272, 273 and 34 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act, 2016.
3. The allegation is regarding recovery of 144 litres of illicit liquor from a motorcycle and from the spot, one co-accused person, namely, Raja Mahto was arrested.
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, by referring to paragraph no. 7 of the present petition, that though the petitioner is the owner of the motorcycle but he had given his motorcycle to the said co-accused person, namely, Raja Mahto since he had borrowed the motorcycle from the petitioner on the pretext of him having some urgent family work to attend to. It is also submitted that the illicit liquor has neither been recovered from the conscious possession of 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).

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 the illicit liquor has neither been recovered from the conscious possession of the petitioner nor from his house, *prima facie* this Court finds that 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 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 Additional Sessions Judge-II-cum-Special Judge, Excise, Act, Madhubani in connection with Saharghat P.S. Case



No. 186 of 2022, subject to the conditions as stipulated under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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