

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38045 of 2023

Arising Out of PS. Case No.-307 Year-2022 Thana- BHANGWANPUR HAT District- Siwan

MAHATAM BIN @ MAHATAM PRASAD S/O LATE SHAKAL BIN @
SAKALDEO BIN R/O Village- Mirjumla, PS. Bhagwanpur Hat, Dist. Siwan
... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Javed Aslam, Advocate
For the Opposite Party/s : Mr.Akshay Lal Pandit, 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. This is an application for grant of anticipatory bail in connection with Bhagwanpur Hat PS case no. 307 of 2022, registered for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.
3. The allegation is regarding recovery of 05 liters of illicit *mahua* liquor from near the banks of the river in question, on the alleged date and time of occurrence, after the informant along with his police force had conducted a raid, upon receiving secret information to the effect that the petitioner was selling liquor near the river bank, however, when the police had arrived there, one person had managed to flee away.
4. The learned counsel for the petitioner submits that the petitioner is innocent, he has been falsely implicated in the



present case and 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 but the same has been recovered from near the river bank, hence, there is no impediment in grant of anticipatory bail to the petitioner, inasmuch as no case is made out as against the petitioner herein under the provisions of the Bihar Prohibition and Excise Act, 2016.

5. *Per contra*, the learned APP for the State has vehemently opposed the prayer for 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, this Court finds that neither the illicit liquor has been recovered from the possession of the petitioner nor from his house but from the river bank, hence, *prima facie*, no case is made out for the offences alleged, *qua* the petitioner herein, thus, the bar under Section 76(2) of the Bihar Prohibition and Excise Act, 2016 shall not be an impediment for grant of anticipatory bail to the petitioner herein, as such, I deem it fit and appropriate to admit the petitioner to the privilege of anticipatory bail.



7. Accordingly, the abovenamed petitioner, in the event of his arrest or surrender before the court below within a period of six weeks from the date of receipt/ production of a copy of this order, is directed to be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Rs. Ten thousand) with two sureties of the like amount each to the satisfaction of learned court of Exclusive Special Excise Court no.-1, Siwan in connection with Bhagwanpur Hat PS case no. 307 of 2022, subject to the conditions as laid down under Section 438(2) of Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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