

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38655 of 2023

Arising Out of PS. Case No.-249 Year-2019 Thana- SIWAN CITY District- Siwan

JITENDRA KUMAR BHARTI S/o- RAM KAILASH BHARTI Village-
Babhnauli Ps- Mairwa Dist- Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajay Kumar Tiwary

For the Opposite Party/s : Mr.Veena Kumari Jaiswal

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 28-07-2023 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 Siwan Town P.S. Case No. 249 of 2019 registered for the offence punishable under Section 30(a) of the Bihar Prohibition Excise (Amendment) Act, 2018.

3. The allegation is regarding recovery of 83.880 liters of illicit liquor from the vehicle in question, alleged to be belonging to the petitioner and the driver was arrested from the spot.

4. The learned counsel for the petitioner submits 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 the vehicle



in question is a public career, hence, the petitioner was not knowing about the consignment, being carried upon the same, however, the fact is that neither the illicit liquor has been recovered from the conscious possession of the petitioner nor from his house, hence, the petitioner is not having any complicity in the matter.

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 petitioner, taking into account the materials available on record as also considering the fact that neither the illicit liquor has been recovered from the house of the petitioner nor from the conscious possession of the petitioner and it has been recovered from the vehicle of the petitioner, which is a public career and was being driven by the driver, this Court finds that prima facie, no case is made out for the offences punishable under the provisions of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to “the 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 to the



privilege of anticipatory bail.

7. Accordingly, the petitioner is directed to be enlarged on anticipatory bail, in the event of his arrest or 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/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge Excise Court No. II, Siwan in connection with Siwan Town P.S.Case No. 249 of 2019, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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