

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38511 of 2023

Arising Out of PS. Case No.-46 Year-2023 Thana- CHACKMEHSI District- Samastipur

NUR HASAN SON OF RAUPH @ MD. RAUF SAH RESIDENT OF
VILLAGE BELSANDI WARD NO. 5 PO+PS- CHAKMEHSI
KALYANPUR, DISTT- SAMASTIPUR

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anu Priyadarshni

For the Opposite Party/s : Mr.Sharda Kumari

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 Chakmehsi P.S. Case No. 46 of 2023, registered for the offence punishable under Sections 420, 467, 468 of the India Penal Code and Sections 30(a), 36, 41(i)(ii) of the Bihar Prohibition and Excise Act, 2018.

3. The allegation is regarding recovery of 150.87 liters of illicit foreign liquor from a motorcycle at Neemchak Haidar Chaur.

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 name of the petitioner has transpired in the present case on the basis of the confessional statement of the co-accused persons, namely, Kamlesh Kumar and Ranjay Kumar, however, no illicit liquor has been recovered from the conscious possession of the petitioner, 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 no illicit liquor has been recovered either from the conscious possession of the petitioner or from his house and his name has transpired in the present case upon confessional statement made by the co-accused persons, which has got no evidentiary value in the eyes of law, 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 Special Excise Judge No. 1, Samastipur in connection with Chakmehsi P.S.Case No. 46 of 2023, 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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