

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.48044 of 2023**

Arising Out of PS. Case No.-34 Year-2023 Thana- IMADPUR District- Bhojpur

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1. CHOTAK MALAH @ SIDHNATH MALAH @ SIDHNATH CHOUDHARY son of Vishwanath Malah @ Vishwanath Choudhary Village- Bihta Mahulani Ps- Imadpur Dist- bhojpur
  2. Dugari @ Dharmendra pasi son of Ram Kewal Pasi Village- Bihta Mahulani PS- Imadpur Dist- Bhojpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.Raj Krishna Jha  
For the Opposite Party/s : Mr.Shailendra Kumar

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**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH**  
**ORAL ORDER**

2      11-08-2023              At the outset, the learned counsel for the petitioners submits that since the petitioner no. 2 has already been arrested during the interregnum period, the present petition has become infructuous qua him.

2.      Accordingly, the present petition qua the petitioner no. 2 stands dismissed as not pressed.

3.      Heard the learned counsel for the petitioner no. 1 and the learned A.P.P. for the State.

4.      This is an application for grant of anticipatory bail in connection with Imadpur P.S. Case No. 34 of 2023 registered for the offence punishable under Sections 30(a) and 30(c) of the Bihar Prohibition and Excise Act.



5. The allegation is regarding recovery of 25 liters of illicit country made liquor and 400 liters of gur pass from the bushes situated on the bank of river Sone.

6. The learned counsel for the petitioner no. 1 submits that the petitioner no. 1 is innocent, he has been falsely implicated in the present case and he is having a clean antecedent. The learned counsel for the petitioner no. 1 has further submitted that the illicit liquor has not been recovered from the house of the petitioner no. 1 and the place, from where the same has been recovered, does not belong to the petitioner no. 1. It is also submitted that the name of the petitioner no. 1 has transpired in the present case merely on the disclosure made by the village chaukidar before the police, which has got no evidentiary value in the eyes of law. Hence, it is the case of the petitioner no. 1 that no offence is made out under the provisions of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to “the Act, 2016”).

7. Per contra, the learned APP for the State has vehemently opposed the prayer for bail.

8. 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 No. 1 or from his house, this Court finds that prima facie, no case is made out for the offences punishable under the provisions of 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 no. 1 herein, thus, I deem it fit and proper to admit the petitioner no. 1 to the privilege of anticipatory bail.

9. Accordingly, the petitioner no. 1 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 Court No. 1<sup>st</sup>, Bhojpur at Ara in connection with Imadpur P.S.Case No. 34 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

**(Mohit Kumar Shah, J)**

Ajay/-

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