

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45558 of 2023

Arising Out of PS. Case No.-65 Year-2023 Thana- JANDAHA District- Vaishali

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Kaushal Sahani S/O Masudan Sahani @ Rasuden Sahni R/O Village- Dih
Buchauli, P.S- Jandaha, Distt.- Vaishali.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Ms.Bela Singh, Advocate

For the Opposite Party/s : Mr.Bharat Lal, APP

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

- 2 04-08-2023 1. Heard the learned counsel for the
petitioner and learned APP for the State.
2. This is an application for grant of
anticipatory bail in connection with Jandaha P.S.
Case No.65 of 2023, registered for offences under
Sections 30(a), 32(i), 36(i), 41(i) of the Bihar
Prohibition and Excise Amendment Act, 2018.
3. The case of the prosecution is that on
the alleged date and time of occurrence, the
informant received secret information that the
accused persons have brought a container loaded



with Indian Made Foreign liquor at village -Rampur Chaklala and were engaged in selling the same to the local villagers, whereupon the informant along with the police force had conducted a raid at the alleged place of occurrence and seized Mahindra Pick-up vehicle, Tata Pick-up vehicle and Mahindra Bolero Jeep, and upon search, 1918.080 litres of Indian Made Foreign Liquor was recovered.

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 that the name of the petitioner has transpired in the present case on the informant having received secret information regarding his complicity in the alleged offence. It is also submitted by referring to paragraph no.9 of the present petition that the petitioner is neither driver nor owner of the vehicles in question, hence he is not having any complicity in the alleged occurrence, thus the provisions of the Bihar Prohibition and Excise Act,



2016 are not attracted in the present case. Lastly, it is submitted that similarly situated co-accused persons have already been granted the privilege of anticipatory bail by a co-ordinate Bench of this Court, vide order dated 22.05.2023 passed in Cr.Misc. No.25460 of 2023 and vide order dated 16.05.2023 passed in Cr. Misc. No.27147 of 2023.

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 as also considering the parity of the case of the petitioner with that of the co-accused persons, who have already been granted the privilege of anticipatory bail by a co-ordinate Bench of this Court, apart from the fact that neither the illicit liquor has been recovered from the conscious possession of the petitioner nor from his house and moreover, the vehicles in question, from which the illicit liquor has been recovered



does not belong to the petitioner as has been stated in the present petition, hence *prima facie* this Court finds that no case is made out for the offences punishable under the provisions of the Bihar Prohibition and Excise Act, 2016, hence the bar under Section 76(2) of the Bihar Prohibition and Excise 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 above named 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 Excise Court NO.1-cum-Additional District & Sessions Judge, Vaishali at Hajipur in connection with Jandaha P.S. Case No.65 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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