

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47918 of 2023

Arising Out of PS. Case No.-194 Year-2023 Thana- JAGDISHPUR District- Bhojpur

Hare Ram Yadav S/O Bhim Yadav @ Lachhuman Yadav R/O Village-
Kachaniya, Ps. Jagdishpur, Dist. Bhojpur

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anil Kumar, Advocate

For the Opposite Party/s : Ms. Shaheen Begum, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

- 2 11-08-2023 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 Jagdishpur P.S. Case No.194 of 2023, registered for offence under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.
3. The allegation is regarding recovery of 300 litres of illicit liquor from two motorcycles and one tempo. The name of the petitioner is stated to have been disclosed by the arrested accused person, namely, Premchand Kumar.
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 seized motorcycle in question from which the illicit liquor has been recovered, does not belong to the petitioner and he has been merely implicated on the basis of the confessional statement made by the co-accused person, which has got no evidentiary value in the eyes of law, hence the provisions of the Bihar Prohibition and Excise Act, 2016 are not attracted in the present case.

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 fact that neither the motorcycle from which the illicit liquor has been recovered belongs to the petitioner nor the illicit liquor has been recovered from his house



and his name has transpired merely on the confessional statement of the co-accused person, who was arrested on the spot, which has got no evidentiary value in the eyes of law, *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, Bhojpur, Ara in



connection with Jagdishpur P.S. Case No.194 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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