

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45222 of 2023

Arising Out of PS. Case No.-122 Year-2023 Thana- ARARIA District- Araria

VIKASH KUMAR @ BIKKI @ VIKASH KUAMR SHARMA son of Wakil
Sharma Village- Shishiya Ps- Barari Dist- Katihar

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ram Prawesh Kumar
For the Opposite Party/s : Mr.Mritunjay Kumar Nirala

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 04-08-2023 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 Araria (Bairgachhi) P.S. Case No. 122 of 2023, registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

3. The allegation is regarding recovery of 1014.12 liters of illicit beer and illicit foreign liquor from a pick-up van and the petitioner is alleged to be the driver of the said vehicle.

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 one co-



accused person, namely, Abhimanyu Mahto, was arrested, after the alleged incident had taken place, whereupon he was interrogated and then, he had disclosed the name of his accomplices including that of the petitioner herein and he had also disclosed that he was the driver of the vehicle in question, however it is submitted, by referring to paragraph no. 9 of the present petition that the petitioner is neither the owner nor the driver of the vehicle in question.

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 petitioner has been arrested from the spot nor any illicit liquor has been recovered from his conscious possession and on the contrary, it has been categorically stated in the present petition that neither the petitioner is the owner nor the driver of the vehicles in question, 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 No. 1, Araria, in connection with Araria (Bairgachhi) P.S.Case No. 122 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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