

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47940 of 2023

Arising Out of PS. Case No.-88 Year-2023 Thana- HUSSAINGANJ District- Siwan

1. Mukesh Chaudhary @ Mukesh Kumar Son of Late Banke Lal Chaudhary Resident of village - Gopalpur, P.S. - Hussainganj, Distt. - Siwan
2. Vicky Chaudhary Son of Mohan Pasi Resident of village - Gopalpur, P.S. - Hussainganj, Distt. - Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bijay Prakash Singh, Advocate

For the Opposite Party/s : Mr.Anil Kumar, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

- 2 11-08-2023 1. At the outset, the learned counsel for the petitioners seeks to withdraw the present petition qua the petitioner no.2, with liberty to him to surrender before the learned Court below, within a period of four weeks from today and avail the privilege of regular bail. Liberty so sought is granted.
2. Accordingly, the present petition qua the petitioner no.2 stands disposed off as not pressed.
3. Heard the learned counsel for the petitioner no.1 and learned APP for the State.
4. This is an application for grant of



anticipatory bail in connection with Hussainganj P.S. Case No.88 of 2023, registered for offences under Sections 147, 148, 323, 307, 224, 225, 353, 504 of the IPC and Section 30(a) and 45 of the Bihar Prohibition and Excise Act, 2016.

5. The case of the prosecution, in brief, according to the informant, is that the informant received secret information that the co-accused person, namely, Rajendra Prasad Chaurasia is engaged in manufacturing and selling of illicit liquor from his house, whereafter the informant along with his police force had conducted raid at the house of the said Rajendra Prasad Chaurasia, and 25 litres country made chulai liquor, two gas cylinders and one stove, etc. were recovered and he was arrested, however, upon him having raised an alarm, the accused persons, including the petitioners herein had arrived there and had managed to free the said Rajendra Prasad Chaurasia. It is also alleged that accused persons, more particularly Akash Kumar and Anita Kumari had hit the police personnel with *lathi*.



6. The learned counsel for the petitioner no.1 has submitted that the petitioner no.1 is innocent and he has been falsely implicated in the present case. The learned counsel for the petitioner no. 1 has further submitted that the petitioner no.1 is an accused in one another case, but he is on bail in the said case. The learned counsel for the petitioner no.1 has also submitted that as far as the petitioner no.1 is concerned, a general and omnibus allegation has been levelled, however, since the petitioner no.2 is having a bad antecedent, he may have been involved in obstructing the police force in discharging their public duty, but the petitioner no.1 has no role to play in the alleged incident, hence the provisions of the Bihar Prohibition and Excise Act, 2016 are not attracted qua the petitioner no.1.

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



parties and taking into account the materials available on record as also considering the fact that a general and omnibus allegation has been levelled against the petitioner no.1, apart from the fact that no illicit liquor has been recovered either from his conscious possession or from his house, *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 no.1 to the privilege of anticipatory bail.

9. Accordingly, the above named 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 Excise Case No.1, Siwan in connection with
Hussainganj P.S. Case No.88 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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