

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45221 of 2023

Arising Out of PS. Case No.-166 Year-2023 Thana- BIRAUL District- Darbhanga

KISHORI MUKHIYA Son of Ganeshi Mukhiya Resident of village - Balha,
P.S.- Biraul, District - Darbhanga

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Virendra Kumar

For the Opposite Party/s : Mr.Sanjay Kumar

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 Biraul P.S. Case No. 166 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 2 liters of illicit country made liquor from a motorcycle, which is alleged to be that of the petitioner.

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 referred to paragraph no. 8 of the present petition to submit that the motorcycle does not belong to



the petitioner, hence, it is submitted that the petitioner is not having any complicity in the matter.

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 the petitioner has categorically stated that he is not the owner of the motorcycle in question, apart from the fact that he is having a clean antecedent, 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 Excise Court-II, Darbhanga, in connection with Biraul
P.S.Case No. 166 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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