

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45230 of 2023

Arising Out of PS. Case No.-13 Year-2023 Thana- DORIGANJ District- Saran

MARCHAI BHAGAT @ KESHAV KUMAR @ KESHAW S/O AMIT
KESHAV @ MATHURA BHAGAT R/O VILLAGE- BHAIROPUR
NIJAMAT, PS. DORIGANJ, DIST. SARAN

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sourav Suman, Advocate

For the Opposite Party/s : Mr.Bishweshwar Ram, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

- 2 04-08-2023 1. 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 Doriganj PS case no. 13 of 2023, registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise (Amendment) Act, 2022.
3. The allegation is regarding the informant having received secret information that the petitioner was engaged in the business of illicit liquor, whereafter a raid was conducted in the bamboo orchard in question and 7.2 liters of illicit liquor was recovered.
4. The learned counsel for the petitioner submits that the petitioner is innocent, he has been falsely implicated in the present case and is having a clean antecedent. The learned



counsel for the petitioner has further submitted that neither any illicit liquor has been recovered from the conscious possession of the petitioner nor the bamboo orchard belongs to the petitioner, hence, the petitioner is not having any complicity in the matter, thus 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 it is the specific averment of the petitioner that the bamboo orchard does not belong to him and moreover, no illicit liquor has been recovered from his conscious possession, this Court finds that *prima facie*, no case is made out as against the petitioner herein under the provisions of the Bihar Prohibition and Excise 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 appropriate to admit the petitioner to the privilege of anticipatory bail.

7. Accordingly, the abovenamed petitioner, in the



event of his arrest or surrender before the court below within a period of six weeks from the date of receipt/ production of a copy of this order, is directed to be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Rs. Ten thousand) with two sureties of the like amount each to the satisfaction of learned court of Special Judge (Excise), Saran in connection with Doriganj PS case no. 13 of 2023, subject to the conditions as laid down under Section 438(2) of Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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