

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45565 of 2023

Arising Out of PS. Case No.-297 Year-2023 Thana- GOVINDGANJ District- East
Champaran

Sanjay Yadav S/O Late Rudal Yadav R/O Village- Barharwa Bandh, P.S-
Malahi, Distt.- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Tiwari, Advocate
For the Opposite Party/s : Ms.Sangeeta Sharma, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

- 2 04-08-2023 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 Govindganj
(Malahi) P.S. Case No.297 of 2023, registered for
offence under Section 30(a) of the Bihar Prohibition
and Excise Act (Amendment) Act, 2018.
3. The allegation is regarding recovery of
32.760 illicit liquor from a motorcycle, which is
alleged to be that of the petitioner.
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 by referring to paragraph no.7 of the present petition that the motorcycle in question does not belong 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 in the present petition that the motorcycle from which the illicit liquor has been recovered does not belong to the petitioner, *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 Special Judge Excise Court No.1, East Champaran, Motihari, in connection with Govindganj (Malahi) P.S. Case No.297 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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