

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48051 of 2023

Arising Out of PS. Case No.-261 Year-2023 Thana- HARSIDHI District- East Champaran

UPENDRA SAHNI SON OF KARI SAHANI R/O-GHOGHRAHA, P.S.-
HARSIDHI, DISTT.-EAST CHAMPARAN

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Abhishek Kumar

For the Opposite Party/s : Mr.Shahabuddin Azeem @ S. Azeem

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 11-08-2023 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 Harsidhi P.S. Case No. 261 of 2023 registered for the offence punishable under Sections 272, 273, 414 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act.

3. The allegation is regarding recovery of 420 liters of illicit spirit from a field situated behind the house of the petitioner and from the said place, some motorcycles were also recovered.

4. The learned counsel for the petitioner submits that the petitioner is innocent and he has been falsely implicated in the present case. The learned counsel for the petitioner has further submitted that the petitioner is an accused in one another case,



but he is on bail in the said case. The learned counsel for the petitioner has submitted, by referring to paragraph no. 12 of the present petition that the petitioner is neither the owner of the field in question nor that of the motorcycles in question, hence, it is submitted that the provisions of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to “the 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 petitioner, taking into account the materials available on record as also considering the fact that it is the categorical averment of the petitioner in the present petition that neither the place, from where the illicit spirit has been recovered, belongs to the petitioner nor the motorcycles in question belong to the petitioner, this Court finds that prima facie, no case is made out for the offences punishable under the provisions of 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 No. 1, Motihari, East Champaran, in connection with Harsidhi P.S.Case No. 261 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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