

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48212 of 2023**

Arising Out of PS. Case No.-104 Year-2023 Thana- SHEKHPURA District- Sheikhpura

MANISH KUMAR SON OF ARUN SINGH R/O-DARIYAPUR, P.S.-
WARISALIGANJ, DISTT.-NAWADAH, STATE-BIHAR

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Nilendu Kumar Choudhary, Advocate

For the Opposite Party/s : Mr.Lakshmi Kant Sharma, APP

**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER**

- 2 11-08-2023 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 Sheikhpura PS case no. 104 of 2023, registered for the offences punishable under Sections 30(a), 41, 32 of Bihar Prohibition and Excise (Amendment) Act, 2018.
3. The allegation is regarding recovery of 172.5 liters of illicit foreign liquor from a car, however the driver managed to flee away under the cover of darkness.
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 by referring to paragraph no. 6 of the present petition that the car in question



does not belong to the petitioner. It is next contended that the name of the petitioner has transpired in the present case subsequently, inasmuch as the sim card of the mobile phone, recovered from the aforesaid car in question, is stated to be registered in the name of the petitioner. Lastly, it is contended that merely because the petitioner is the owner of the sim card in question, he has been implicated in the present case, however, the fact remains that he is neither the owner of the car in question nor of the illicit liquor, hence 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 the petitioner has categorically stated in the present petition that the car, from which the illicit liquor has been recovered, does not belong to the petitioner, I find that *prima facie*, no case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016, as far as the present bail petition is concerned, thus the bar under



Section 76(2) of the Act, 2016 shall not be an impediment for the purpose of grant of anticipatory bail to the petitioner herein, hence 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 Exclusive Special Excise Judge, Sheikhpura in connection with Sheikhpura PS case no. 104 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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