

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48039 of 2023

Arising Out of PS. Case No.-557 Year-2022 Thana- BANIAPUR District- Saran

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GULSHAN RAM SON OF NIRMAL RAM RESIDENT OF VILLAGE-
NAGDIHA, PS- BANIYAPUR, DIST- SARAN AT CHAPRA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Vijay Kumar

For the Opposite Party/s : Mr.Pushpa Sinha.1

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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 Baniyapur P.S. Case No. 557 of 2022, registered for the offence punishable under Section 30(a) of the Bihar Prohibition Excise Act, 2016.

3. The allegation is regarding recovery of 50 liters of illicit country made chulai liquor from two motorcycles and it is alleged by the village chaukidar that one of the motorcycle was being driven by 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 further submitted, by referring to paragraph no. 7 of the present petition that the motorcycle in



question does not belong to the petitioner, hence, it is submitted that no case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to “the Act, 2016”).

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 the motorcycle in question does not belong to the petitioner, 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 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 A.D.J. 2nd cum Special Judge Excise Saran at Chapra in connection with Baniyapur P.S.Case No. 557 of 2022, 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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