

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54785 of 2023

Arising Out of PS. Case No.-439 Year-2023 Thana- TURKAULIYA District- East
Champaran

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Ashok Sahni @ Ashok Sahani S/O Late Lalu Sahani R/O Village-
Panchrukha, Ps. Banjariya, Dist. East Champaran

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dhurendra Kumar, Adv.

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

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL ORDER

2 23-08-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 272/ 273/ 34 of the I.P.C. read with Sections 30(a)/ 32/ 34/ 36/ 41(i) of the Bihar Prohibition and Excise Act, 2018.

3. As per the prosecution case, the total recovery of 105 litre country-made wine has been made from the bank of the river, which is the subject matter of the present case.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence. Counsel submits that the name of the petitioner has figured in this case by virtue of the local *chowkidar*, who has inimical term with the

petitioner.

5. Learned counsel for the petitioner further submits that nothing incriminating has been recovered from the possession of the petitioner. Counsel further submits that there are five criminal antecedents of the petitioner. Counsel further submits that petitioner has neither any concern with the place of occurrence nor alleged recovery of liquor.

6. Learned A.P.P. for the State opposes the prayer for bail and submits that the case has been lodged under the Excise Act. Counsel also submits that anticipatory bail is not maintainable under Section 76(2) of the Bihar Prohibition and Excise Act. Counsel further submits that there are five criminal antecedents of the petitioner.

7. In the present facts and circumstances and the submissions made above, this Court is not inclined to extend the privilege of anticipatory bail to the petitioner in connection with Turkauliya (Banjariya) P.S. Case No. 439 of 2023, dated 11.04.2023 to the satisfaction of learned Exclusive Special Excise Court No. 1, East Champaran, Motihari.

8. Accordingly, the prayer for anticipatory bail of the petitioner stands rejected.

9. However, the learned Court below shall consider

the prayer for regular bail of the petitioner, if the petitioner surrenders within a period of six weeks.

10. The present order shall not cause any prejudice to the petitioner.

(Dr. Anshuman, J.)

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