

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61627 of 2023

Arising Out of PS. Case No.-731 Year-2022 Thana- RAJAOLI District- Nawada

BUDHDEO SAO @ SUNIL PRASAD SAO S/O LATE ROHAN SAW R/O
VILLAGE- MARMO, PS. RAJAULI, DIST. NAWADA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Hansraj, Advocate

For the Opposite Party/s : Mrs.Sucheta Yadav, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 11-10-2023 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 Rajauli P.S. Case No. 731 of 2022, registered for the offences punishable under Section 414 of the Indian Penal Code and Sections 30(a)(d) and 41 of the Bihar prohibition and Excise Act, 2016 (hereinafter referred to as the 'Act, 2016').

3. The case of the prosecution, in brief, is that on the alleged date and time of occurrence, a raid was conducted at the alleged place of occurrence, which is stated to be a forest area and 30 litres of country made liquor, three motorcycles, 1000 litres of fermented jawa Mahua and utensils



used for manufacturing liquor were recovered and some of the miscreants were arrested, who upon interrogation, disclosed the names of their accomplices including that of the petitioner herein.

4. The learned counsel for the petitioner has submitted 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 that neither the petitioner has been arrested from the spot nor any illicit liquor has been found from his house nor the place from where illicit liquor has been recovered, belongs to the petitioner, hence the provisions of the Bihar Prohibition and Excise Act, 2016 are not attracted, thus the bar under Section 76(2) of the Act, 2016 would not be an impediment to grant of anticipatory bail to the petitioner herein.

5. 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 neither the petitioner has been arrested from the spot nor any illicit liquor has been recovered from his house/premises, nor the motorcycles in question seized by the police belong to the petitioner, this Court finds that *prima facie*, no case is made out as against the petitioner herein under the provisions of the Bihar Prohibition and Excise 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, hence I deem it fit and appropriate to admit the petitioner to the privilege of anticipatory bail.

6. Accordingly, the above named petitioner, 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, 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



Exclusive Special Excise Judge-2, Nawada in connection with Rajauli P.S. Case No. 731 of 2022, subject to the conditions as laid down under Section 438(2) of Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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