

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61641 of 2023

Arising Out of PS. Case No.-531 Year-2023 Thana- BIHTA District- Patna

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1. ANKIT KUMAR S/O JITENDRA RAM RESIDENT OF VILLAGE AMHARA, PS- BIHTA, DIST- PATNA
 2. BABLU KUMAR YADAV @ KUMAR BABLU S/O SHARDA NAND YADAV @ SHARDANAND SINGH RESIDENT OF VILLAGE AMHARA, PS- BIHTA, DIST- PATNA

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ashok Kumar Sinha, Adv.
For the Opposite Party/s : Mr.Ajay Kumar No. 2, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 11-10-2023 1. Heard the learned counsel for the petitioners and learned APP for the State.

2. This is an application for grant of anticipatory bail in connection with Bihta P.S. Case No.531 of 2023, registered for offences under Sections 30(a)/32(i)(ii)/36/41(i)(ii) and 62 of the Bihar Prohibition and Excise Act, 2018.

3. The case of the prosecution, in brief, is that the police personnel had received a secret information that huge quantities of illicit liquor was being unloaded from a truck at the Mayur Line Hotel, situated at village-Amhara, whereafter the



police force had conducted a raid and seized 2210.62 litres of illicit foreign made liquor from a truck and 1286.10 litres of illicit foreign made liquor from Mayur Line Hotel, which admittedly does not belong to the petitioners. Two motorcycles were also seized and some miscreants were apprehended, who upon interrogation disclosed the names of their accomplices including that of the petitioners herein.

4. The learned counsel for the petitioners has submitted that the petitioners are innocent, they have been falsely implicated in the present case and they are having a clean antecedent. The learned counsel for the petitioners has further submitted by referring to paragraphs no.11 to 15 of the present petition that neither the motorcycles nor the truck nor the Mayur Line Hotel, belong to the petitioners, as such the petitioners are not having any complicity in the matter. It is next contended that the name of the petitioners have transpired in the present case upon the confessional statement made by the co-accused



person, who was arrested on the spot, before the police, however, the same has got no evidenciary value in the eyes of law. Lastly, it is submitted that no illicit liquor has been recovered from the houses or the premises of the petitioners, hence the petitioners are not having any complicity in the matter, thus the provisions of the Bihar Prohibition and Excise Act, 2016, would not be attracted in the present case, consequently the bar under Section 76(2) of the Act, 2016, will not be an impediment to grant of anticipatory bail to the petitioners herein.

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 neither the petitioners have been arrested from the spot nor the truck/motorcycle in question, belong to the petitioners nor the Mayur Line Hotel



belongs to the petitioners, apart from the fact that the illicit foreign made liquor has not been recovered from the house/premises of the petitioners, this Court finds that prima facie no case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016, hence the bar under Section 76(2) of the Act, 2016, would not be an impediment in grant of anticipatory bail to the petitioners herein, thus, I deem it fit and proper to admit the petitioners to the privilege of anticipatory bail.

7. Accordingly, the above named petitioners are directed to be enlarged on anticipatory bail, in the event of their 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) each with two sureties of the like amount each to the satisfaction of learned Special Excise Judge, Danapur, Patna in connection with Bihta P.S. Case No.531 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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