

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69237 of 2022

Arising Out of PS. Case No.-321 Year-2022 Thana- SONEPUR District- Saran

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Guddu Chaudhary @ Shiv Guddu Chaudhary S/O Vijay Chaudhary Resident
of Village- Rahimpur, P.S.- Sonpur, District- Saran at Chapra.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Atul Shankar, Advocate

For the Opposite Party/s : Mr.Abhay Kumar Roy, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 01-05-2023 Heard learned counsel appearing on behalf of the

petitioner and learned Additional Public Prosecutor appearing

on behalf of the State.

The accused/petitioner is named in F.I.R and
apprehending his arrest in connection with Sonepur P. S. Case
No. 321 of 2022 registered for the offences punishable under
Section 30(a) of Bihar Prohibition and Excise Act, 2018.

The allegation against the petitioner is involved in
illegal trading of illicit liquor, where it is alleged that 10 Liters
country made liquor was recovered from hut of the petitioner.

Learned counsel appearing on behalf of the petitioner
submitted that name of the petitioner surfaced in the present
case on the basis of unknown villagers and also there is nothing



which may suggest that hut in question belongs to this petitioner and, as such, it can be safely said that the fact of this case does not make out any offence against this petitioner under Provision of Bihar Prohibition and Excise Act, 2016 and, as such, barrier of Section 76(2) of the Bihar Prohibition and Excise Act, 2016, not appears to be a barrier in given facts and circumstances, as per ratio laid down by our own High Court in the matter of ***Ram Vinay Yadav vs. State of Bihar, 2019 (3) BLJ 858***. While concluding the argument, it is submitted that seizure list also appears doubtful being not supported by independent witnesses, rather same is supported by Bihar Homeguard personnels and, moreover, petitioner is a man of clean antecedent.

Learned APP for the State, while opposing the prayer of anticipatory bail submitted that petitioner is named in the FIR and recovery of 10 liters country made liquor is alleged to be recovered from his hut, where investigation is yet to complete and at this stage, it cannot be said that no, *prima facie*, case is made out against this petitioner, as submitted.

Considering the aforesaid facts and circumstances, as petitioner is named in the FIR, where recovery of alleged country made liquor appears to be made from his hut and also by taking note of the provision of Section 76(2) of Bihar



Prohibition and Excise Act, 2016, the prayer of anticipatory bail
of the petitioner is rejected herewith.

(Chandra Shekhar Jha, J)

R.S.Sen/-

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