

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46379 of 2024

Arising Out of PS. Case No.-273 Year-2020 Thana- DIDARGANJ District- Patna

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Bhim Mistri S/O Late Ram Aashish Mistri R/O Village-Janta Flat
Mahmudichak Road no.10,P.S.-Kadam Kuan, Distt-Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Binay Kumar Singh, Advocate

For the Opposite Party/s : Mr.Sanjay Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 19-07-2024 1. Heard the learned counsel for the petitioner and
learned APP for the State.

2. The present petition has been filed by the
petitioner for grant of anticipatory bail in connection with
Didarganj P.S. Case No.273 of 2020, registered for offences
under Sections 30(a) of the Bihar Prohibition and Excise Act,
2016.

3. The case of the prosecution, in brief, is that upon
receiving secret information, the Inspector of Police-cum-
Station House Officer, Didarganj Police Station had gone near
the river Ganges on 26.07.2020 for apprehending the
miscreants, who were involved in illicit business of liquor,
however, nothing could be found there but they were told that
the co-accused persons, namely, Sunil Kumar, Pintu Kumar and



Mantu Kumar, usually carry illicit liquor on their scooty from the river bank to their house, where they were storing illicit liquor. The police had then conducted a raid at the house of the co-accused persons, namely, Sunil Kumar, from where the co-accused person, namely, Pintu Kumar was arrested and one scooty was recovered on which two sacks, containing 80 litres of illicit country made chulai liquor were found loaded. Subsequently, it transpired that the said scooty was registered in the name of the petitioner.

4. The learned counsel for the petitioner has submitted 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 that neither the house in question belongs to the petitioner nor the illicit liquor has been recovered from the possession of the petitioner and merely on the ground that the scooty in question is registered in the name of the petitioner, the petitioner has been subsequently implicated in the present case, although he is having no complicity in the alleged incident, hence it is submitted that no case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016, thus, the bar under Section 76(2) of the Bihar Prohibition and Excise



Act, 2016 shall not be an impediment for granting bail to the petitioner, herein. Thus, it is submitted that the petitioner be granted the privilege of anticipatory bail. It is also submitted that similarly situated co-accused person, who has been named in the FIR, has already been granted bail by this Court by an order dated 14.12.2021, passed in Cr.Misc. No.40080 of 2021.

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, this Court finds that illicit liquor has been recovered from sacks loaded over a scooty, parked in the house of the co-accused person, namely, Sunil Kumar, thus, neither any recovery has been made from the house of the petitioner nor from him, hence, prima facie, no offence is made out under the provisions of the Bihar Prohibition and Excise Act, 2016, thus, the bar under Section 76(2) of the Bihar Prohibition and Excise Act, 2016 shall not be an impediment for grant of anticipatory bail to the petitioner, apart from the fact that he is having a clean antecedent, hence I deem it fit and proper to admit the petitioner to the privilege of anticipatory bail.



7. Accordingly, the above named 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 today, on furnishing bail bond of Rs.10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Court of Special Judge Excise, Patna City in connection with Didarganj P.S. Case No.273 of 2020, 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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