

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57620 of 2024

Arising Out of PS. Case No.-250 Year-2017 Thana- FATUA District- Patna

Bhuleti Ray @ Jitendra Kumar S/o Tulsi Gope @ Tulsi Yadav R/o village
Raipura P.S. Fatuha District Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

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

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

- 2 09-08-2024 1. Heard the learned counsel for the petitioner and the
learned APP for the State.
2. This is an application for grant of anticipatory bail
in connection with Fatuha P.S. Case No.250 of 2017, registered
for offences punishable under Sections 30(A) of the Bihar
Prohibition and Excise Act, 2016.
3. The allegation is regarding recovery of 15 litres of
whisky and 82 litres of country made liquor from the cow shed
of the co-accused Binod Rai.
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
admittedly, the illicit liquor has been recovered from the



cowshed of the co-accused person, namely Binod Rai and on his confessional statement, the petitioner has been falsely implicated in the present case. Moreover, it is a fact that neither any recovery has been made from the house of the petitioner nor from the conscious possession of the petitioner, hence no case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as 'the Act, 2016'), thus, the bar under Section 76(2) of the Act, 2016, shall not be an impediment in grant of anticipatory bail to the petitioner herein. It is also submitted that similarly situated co-accused person has already been granted the privilege of regular bail by this Court, by an order dated 21.12.2017, passed in Cr. Misc. No.60678 of 2017.

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 admittedly, the illicit liquor has been recovered from the cowshed of the co-accused person, namely Binod Rai, and as far as the petitioner is concerned, no illicit liquor has been recovered either from his conscious



possession or his house, nor he has been arrested from the spot, hence prima facie. no case is made out under the provisions of the Act, 2016, thus the bar under Section 76(2) of the Act, 2016, shall not be an impediment in grant of anticipatory bail to the petitioner, 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 Ld. Trial Court, 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 Special Judge, Excise Court, Patna City, in connection with Fatuha P.S. Case No.250 of 2017, 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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