

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69226 of 2023

Arising Out of PS. Case No.-346 Year-2023 Thana- MADANPUR District- Aurangabad

Shivam Bhuyian @ Shivam Ram Son Of Tilak Bhuyian, Resident Of Village-
Charaiya, P.S.-Madanpur, District- Aurangabad (Bihar)

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

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

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

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

3 27-02-2024 Heard Ld. counsel for the petitioner and Ld. APP for
the State.

2. The petitioner apprehends his arrest, in connection with Madanpur P.S. Case No. 346 of 2023 dated 10.08.2023, registered for the offences punishable under Sections 30(a) of the Bihar Prohibition and Excise Amendment Act, 2018.

3. The prosecution case as emerges from the FIR is that on secret information on 10.08.2023 at about 13.30 O' clock, police personnel reached near charaiya river, and after seeing them, petitioner and his associates fled away, but identified by local *chowkidar*. About 275 litres of desi liquor and 2000 litres of soaked *mahua* recovered from that place.

4. Ld. counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this



case. He further submits that recovery has been made from riverbed and allegedly after seeing the police personnel, five persons fled away and as per local *chowkidar*, the petitioner was identified. However, Ld. counsel for the petitioner submits that had the *chowkidar* seen the occurrence, he could have identified all the five persons, but he has identified only two persons, including the petitioner. As such, there is no *prima facie* case made out against the petitioner and anticipatory bail petition is maintainable.

5. It has also been stated in paragraph no.3 of the bail petition that the petitioner has no criminal antecedent.

6. It is also stated in paragraph no. 2 of the bail petition that the petitioner has not moved this Court earlier either for anticipatory bail or regular one in the instant case.

7. However, Ld. APP for the State vehemently opposes the prayer of the petitioner for bail.

8. Considering the aforesaid facts and circumstances, this application is allowed, directing the petitioner, above named, to be enlarged on bail in the event of his arrest or surrender before the court below within a period of eight weeks from the date of receipt / production of a copy of this order, on his furnishing bail bonds in the sum of Rs. 10,000/- (Ten



Thousand) with two sureties of the like amount each to the satisfaction of Ld. Special Judge, Excise Court-I, Aurangabad, in connection with Madanpur P.S. Case No. 346 of 2023, subject to the conditions as laid down under Section 438 (2) Cr.P.C. and the following conditions:

(i) In case, it is brought to the notice of the court below that the petitioner has given wrong statement regarding his criminal antecedents, Ld. court below shall cancel the bail bond of the petitioner after hearing him and getting satisfied that the petitioner has concealed his criminal antecedents despite his knowledge of the same.

(ii) In case, it is brought to the notice of the court below that statement regarding previous bail petition is wrong, Ld. court below shall cancel the bail bonds of the petitioner.

9. Ld. counsel for the petitioner is directed to remove all the defects, if any, pointed out by the office within a period of one month and the Registry is directed to issue the certified copy of this order only after removal of office objections.

(Jitendra Kumar, J.)

Ravishankar/
Shoaib

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