

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.27507 of 2016

Arising Out of PS.Case No. -74 Year- 2016 Thana -BARHARA District- PURNIA

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1. Bijendra Kumar Sah son of Awadhesh Sah, resident of Village-
Basudeopur, P.S.- Barhara, District- Purniya.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abhishek Kumar

For the Opposite Party/s : Mr. Sri Prem Kumar Jha

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

2 09-08-2016 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

The petitioner apprehends his arrest in connection with a
case registered for the offences punishable under Sections 272/273
of the Indian Penal Code and Section 47A of the Bihar Excise Act,
1915.

Learned counsel for the petitioner submits that admittedly
the liquor was seized from his premises on 03.04.2016 which is
two days prior to the date when the new Excise Act, with regard to
the foreign liquor, came into existence. The Act does not have
retrospective effect. Furthermore, this Court in Cr. W. J.C. No.
533 of 2016 has already held and explained the merit of the
provisions of Section 19(4) which are quoted hereinbelow:-

“A minute reading of the provisions of Section
19(4) makes it clear that by way of the said notification,

issued in exercise of its power under Sub-section (4) of Section 19, the State Government has not prohibited possession of liquor by anyone and unless such a notification is published, possession of foreign liquor would not become an offence punishable under the Act.

In other words, having regard to the notification, published on 05.04.2016, it is not possible to hold, *albeit* tentatively, that mere possession of foreign liquor can be treated as an offence under the Act.”

Considering the aforementioned facts and circumstances and that admittedly the raid was conducted on 03.04.2016, let the petitioner, in the event of his arrest / surrender within a period of four weeks from the date of receipt/production of a copy of this order, be enlarged on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Katihar in connection with Barhara P.S. Case No. 74 of 2016, subject to the conditions as laid down under Section 438(2) of the Cr. P.C.

(Anjana Mishra, J)

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