

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.7720 of 2019**

Arising Out of PS. Case No.-42 Year-2018 Thana- AANDAR District- Siwan

MUKESH YADAV, S/o Umesh Yadav, Resident of Village- Dahabari, Police Station- Ander, District- Siwan.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Ajay Kumar Tiwary, Adv.  
For the Opposite Party/s : Mr.Ram Bachan Singh, APP

**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH**

ORAL ORDER

2      11-02-2019                      Heard learned counsel for the petitioner and learned  
APP for the State.

The petitioner is languishing in custody since 25.06.2018 in a case registered for the offence punishable under Sections 272,273 and 308 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise, Act, 2016.

The prosecution case got initiated on the self statement of Bidhya Sagar Sah, the A.S.I., H. M., Nagar Police Station to the SHO, H.M. Nagar Police Station dated 04.03.2018 to the effect that on the same day at 02.30 P.M. after having received a secret information, the informant reached at the house of co-accused Sadhu Sah, where two persons on seeing the police party tried to escape from the spot. However, one of them was arrested by the informant and the police personnel.



The apprehended co-accused disclosed his name as Bishram Ram and he further disclosed the name of the person who escaped from the scene as Mukesh Yadav, the petitioner. On frisking, from the gunny bag laden on the motorcycle, 7.20 litre of illicit whiskey were recovered.

It is submitted by learned counsel for the petitioner that admittedly the petitioner was not apprehended from the spot, hence, the said recovery cannot be treated from the possession of the petitioner. Moreover, the name of the petitioner sprang up on the basis of confessional statement of apprehended co-accused.

Learned APP for the State submits that the apprehended co-accused named the petitioner as one of his associates and the petitioner is having serious criminal antecedent.

Considering the fact that the accusation does not suggest the said recovery from the conscious physical possession of the petitioner, let the above named petitioner be released on bail, on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-II-cum-Special Judge, Excise, Siwan, in connection with Ander (M.H. Nagar) P.S. Case No.42 of 2018.

Since the petitioner has serious criminal antecedent,



learned court below will be at liberty to cancel the bail bonds of the petitioner, if he defaults for two consecutive occasions or gets involved in some serious nature of offence.

**(Dinesh Kumar Singh, J)**

Ashwini/-

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