

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12385 of 2019

Arising Out of PS. Case No.-18 Year-2019 Thana- JOGBANI District- Araria

SIKANDAR YADAV Son of Sri Mahanand Yadav Resident of Village -
Beriyari, Ward No. 18, P.S.- Rani, Distt - Morang (Nepal)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Kundan Kumar Singh, Adv.

For the Opposite Party/s : Mr.Pushpa Sinha-1, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 01-03-2019 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner is languishing in custody since
16.01.2019 in a case registered for the offence punishable under
Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

The prosecution case is that on 16.01.2019, the S.S.B.
police personnel saw some persons crossing Nepal border laden
with bag on their head. After having chased though some
persons escaped from there, but one of them was apprehended
who disclosed his name as Sikandar Yadav, the petitioner.
Subsequently, 258 litres of Nepali country made liquor were
recovered from the bags.



It is submitted by learned counsel for the petitioner that admittedly the recovery has not been made from the conscious physical possession of the petitioner, rather it has been made from an open place. It is further submitted that the prosecution also does not reflect that the seized material has been sent for its chemical examination to the FSL. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP for the State submits that the petitioner was apprehended while crossing the Nepal border carrying liquor, while others escaped from the scene.

Considering the fact that the accusation does not suggest that either informant saw the petitioner throwing away any bag or the recovery has been made from the conscious physical possession of the petitioner and there is nothing on record to suggest that the sample of seized material has been transmitted to Forensic Science Laboratory for its chemical examination coupled with statement made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, 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 Special Judge, Excise Act, Araria in connection with Special Case No. 83/2019, arising out of Jogbani P.S. Case No.18 of 2019.

(Dinesh Kumar Singh, J)

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