

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.14976 of 2019**

Arising Out of PS. Case No.-16 Year-2019 Thana- FULKAHA District- Araria

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1. BINOD KUMAR MANDAL S/o Adhik Lal Mandal Resident of Village- Panchosimar, Ward No.3, P.S.- Diwanganj, District- Sunsari (Nepal).
  2. Jitu Jha S/o Late Mahendra Jha Resident of Village - Panchosimar, Ward No. 3, P.S.- Diwanganj, District- Sunsari (Nepal).

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.Gopal Kumar Jha  
For the Opposite Party/s : Mr.Nityanand

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

2      12-03-2019                      Heard learned counsels for the parties.

The petitioners are languishing in custody since 25.1.2019 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 the villagers caught hold of four persons including the petitioner along with a motorcycle, which was handed over to the police. It is alleged that from a bag tied with the alleged motorcycle, 36 litres of Nepali made liquor were recovered.

It is submitted by learned counsel for the petitioners that recovery has neither been made from the conscious physical possession of the petitioners nor have the petitioners any concern with the motorcycle in question. However, statement to that effect



has not been made in the petition. Statement has been made in paragraph 3 of the petition that the petitioners are not having any criminal antecedent.

Learned APP submits that the recovery of 36 litres of Nepali liquor were made from the possession of the four persons including the petitioners.

Considering the fact that the prosecution report does not suggest that the informant has bothered to ascertain the ownership of the motorcycle in question, recovery of 36 litres of Nepali liquor has not been made from the conscious physical possession of the four persons including the petitioners, coupled with the statement made in paragraph 3 of the petition that the petitioners are not having any criminal antecedent and the period under custody, let the petitioners above named be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned 2<sup>nd</sup> Additional Sessions Judge-cum-Special Judge, Araria in connection with Fulkaha P.S. Case No.16 of 2019.

**(Dinesh Kumar Singh, J)**

anil/-

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