

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25880 of 2019

Arising Out of PS. Case No.-44 Year-2018 Thana- NADI District- Supaul

Sakindra Yadav @ Sikandar Yadav @ Pandit Yadav, aged about 30 years,
Male, Son of Sagar Yadav, Resident of Village Keotapatti, P.S. Supaul Nadi,
District Supaul.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Suraj Narain Yadav

For the Opposite Party/s : Mr.Satyadeo Singh Yadav

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 22-04-2019 Heard Mr. Suraj Narain Yadav, the learned counsel
appearing on behalf of the petitioner and the learned Additional
Public Prosecutor for the State.

Petitioner apprehends his arrest in Supaul Nadi P.S.
Case No.44 of 2018, registered under Sections 411, 412 and 34 of
the Indian Penal Code as well as under Section 30(a) of the Bihar
Prohibition and Excise Act.

The informant, a police official, got secret inputs that
somebody was carrying liquor on a motorcycle. The police
signaled the motorcyclist to stop but the person who was driving
the motorcycle managed to flee away after jumping into the river
but the pillion rider was apprehended. The pillion rider disclosed
his name as Rajkumar Ram. Rajkumar Ram disclosed that it was
petitioner Sakindra Yadav @ Pandit Yadav who was driving the
motorcycle. From the dickey of the motorcycle, five litres of
liquor was recovered.



Learned counsel for the petitioner submits that the petitioner was taking bath in the river and petitioner was not driving the motorcycle. Nothing has been recovered from possession of the petitioner. According to Section 73 of the Bihar Prohibition and Excise Act, the police below the rank of S.I. is not empowered to search and seize the liquor. In this view of the fact, the seizure list is illegal and has got no value but from perusal of the FIR itself, it appears that it was petitioner who was driving the motorcycle but the petitioner managed to flee away after seeing the police. Pillion rider was apprehended and it was found that the motorcycle was also stolen one and from the dickey of the motorcycle, five litres of liquor was recovered.

Taking into consideration the facts aforesaid, I am not inclined to enlarge the petitioner on anticipatory bail. Accordingly, the prayer for anticipatory bail of the petitioner is rejected.

If the petitioner surrenders in the court below and prays for regular bail, the learned court below shall consider the prayer for regular bail of the petitioner on its own merit without being prejudiced from this order.

(Prabhat Kumar Jha, J)

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