

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20161 of 2019**

Arising Out of PS. Case No.-868 Year-2018 Thana- BANKA District- Banka *

ASHUTOSH KUMAR S/o Bijay Yadav @ Bijay Kumar Yadav R/o village-
Badi Dhaka, P.S.- Banka, District- Banka

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Syed Masleh Uddin Ashraf
For the Opposite Party/s : Mr. B. N. Pandey, APP

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER**

2 02-04-2019

Heard both sides.

The petitioner apprehends his arrest in Banka (Barahat) P.S. case No. 868 of 2018 registered under Section 30(a) of the Bihar Prohibition & Excise Act.

The police on secret information intercepted a tempo and a motor cycle which was following the tempo. On search 157 liters of country made liquor and Indian made foreign liquor was recovered from the tempo. The apprehended persons disclosed their names as Jitendra Paswan and Shashikant Yadav. Jitendra Paswan is driver of tempo and Shashikant Yadav was driving the motor cycle. Shashikant Yadav disclosed that he used to transport illicit liquor with the help of Balmiki Yadav @ Ghootar Yadav.

The learned counsel for the petitioner submits that petitioner is not named in the FIR. Neither the driver nor Shashikant Yadav disclosed the name of the petitioner but during the course of investigation the name of petitioner surfaced in the case on the facts that petitioner happens to be



owner of the tempo. The petitioner had entrusted the tempo to the driver to ply the tempo on hire and petitioner was not aware of the fact that driver of tempo was transporting illicit liquor and for the fault of driver the petitioner cannot be held responsible unless such material, showing the involvement of petitioner in transportation of illicit liquor, is collected.

Taking into consideration the facts aforesaid and the fact that save and except the fact that petitioner is owner of the tempo there is no other material to show that petitioner, being owner of the tempo, was also involved in transportation of illicit liquor from one place to other, the petitioner, above named, in the event of his arrest/ surrender before the court below within a period of four weeks from the date of receipt/ production of a copy of this order is directed to be enlarged on bail on his furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-II, Banka in connection with Banka (Barahat) P.S. case No. 868 of 2018, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Jha, J)

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