

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48036 of 2019

Arising Out of PS. Case No.-247 Year-2017 Thana- HARSIDHI District- East Champaran

MAQUBUL AHMAD @ MAQBOOL MIAN Son of Late Salim Mian
Resident of Village - Dudhahi, P.S.- Harsidhi, District - East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Umesh Chandra Verma

For the Opposite Party/s : Mr.Khurshid Anwar

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 02-08-2019 Heard learned counsels for the petitioner and the

State.

The petitioner is apprehending arrest in a case registered for the offences punishable under Sections 272 and 273 of the IPC and Sections 30(a) and 38(a) of the Bihar Prohibition and Excise Act, 2016.

It is alleged that from the cattle shed of the petitioner, 114.3 litres of Indian Made Foreign Liquor were recovered.

It is submitted by learned counsel for the petitioner that the recovery has been made from an open area, hence the recovery cannot be treated from the conscious physical possession of the petitioner. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.



In view of provision of non-maintainability of the anticipatory bail under Section 76(2) of the Bihar Prohibition and Excise Act, 2016 and the ratio laid down by the Full Bench of this Court in the case of **Ram Vinay Yadav Vs. State of Bihar** reported in **2019(2) PLJR 1089**, the present anticipatory bail application is not maintainable.

However, in view of the parameters laid down in the case of **Ashok Sahni Vs. State of Bihar** reported in **2017(3) PLJR 632**, let the learned Court below consider the prayer for regular bail of the petitioner preferably on the same day, if he surrenders within a period of six weeks in connection with Harsidhi P.S. Case No. 247 of 2017, pending in the Court of learned 9th Additional Sessions Judge-cum-Special Judge, Excise, Motihari, East Champaran.

Accordingly, the present application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

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