

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.73957 of 2018

Arising Out of PS. Case No.-346 Year-2018 Thana- MAIRWAN District- Siwan

Manoj Kumar Sah @ Manoj Kumar, Son of Pashupati Sah@ Paspati Sah, R/o
Mohalla- Dak Bangla Road, Chitragupt, P.S. Siwan, District- Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bijay Prakash Singh

For the Opposite Party/s : Mr. Amrendra Prasad

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 09-01-2019 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner is apprehending arrest in a case registered for the offences punishable under Sections 272, 273, 308 and 34 of the I.P.C. and Sections 30(a), 38(1) and 41(1) of the Bihar Prohibition and Excise Act, 2016.

The prosecution case is that on 06.09.2018 the informant, being police personnel received a secret information concerning transportation of liquor. Hence, a raid was led and during vehicle checking, one Bolero vehicle was intercepted on which three persons were traveling, out of which two were apprehended while the other one managed to escape from the scene. The apprehended persons disclosed their name as Sandip Kumar and Naushad Ali. It is further alleged that from the intercepted Bolero vehicle, 406.80 liters of foreign liquor was



recovered. The apprehended accused persons disclosed the name of the petitioner, Manoj Kumar Sah, who escaped from the scene.

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, hence no offence under section 30(a) of the Bihar Prohibition and Excise Act, 2016, is made out against the petitioner. Even assuming the accusation to be true, no case either under Section 38(1) of the Bihar Prohibition and Excise Act, 2016, is not made out as it describes penalty for possession or knowledge of possession of intoxicant or under Section 41(1) of the Bihar Prohibition and Excise Act, 2016, is made out as it describes penalty for import, export, manufacture, transport, sale or possession by one person on account of another. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

It is submitted by learned APP for the State that the petitioner escaped from the scene while raid was led and seizure has been made.

Considering the fact that the recovery has not been made from the conscious physical possession of the petitioner, 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 anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned **2nd Addl. Sessions Judge-cum-Special Judge, Siwan**, in connection with **Mairwa P.S. Case No. 346 of 2018**, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

Deepak/Ajeet/-

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