

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2676 of 2020**

Arising Out of PS. Case No.-541 Year-2019 Thana- SITAMARHI District- Sitamarhi

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ZIKRULLAH @ DIKRULLAH S/o Nazam Ansari R/o village- Mohanpur
Ward No. 4, P.S.- Sitamarhi, Distt.- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Adv.

For the Opposite Party/s : Ms. Pushpa Sinha, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 28-02-2020 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, 273/34 of the I.P.C. and Section 30(a) of the Bihar Excise and Prohibition Act, 2016, as amended by Amendment Act 8 of 2018.

It is alleged that one Bharat Rai was apprehended while driving a Scooty, from which, 28.800 litres of Nepali Saufi were recovered. The co-accused, Bharati Rai suggested the name of the petitioner who escaped from the scene.

It is submitted by learned counsel for the petitioner that admittedly the petitioner was not apprehended from the spot, hence, the said recovery cannot be treated to be made



from the conscious physical possession of the petitioner and the petitioner has no concern with the Scooty. A statement to that effect has been made in paragraph no.13 of the petition, which reads as under :-

“13 That it is submitted here that there is no recovery of any incriminating article from the person or possession of the petitioner whatever recovery has been made under the scooti and the petitioner no concern with alleged recovery.”

It is further submitted that a statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP for the State submits that the petitioner has been named by the apprehended co-accused from whom the illicit liquor were recovered.

Considering the fact that the said recovery has not been made from the conscious physical possession of the petitioner and the Scooty from which the said recovery has been made does not belong to him, 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 ADJ-II-cum-Special Judge (Excise), Sitamarhi, in connection with Sitamarhi P.S. Case No.541 of 2019, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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