

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4556 of 2020

Arising Out of PS. Case No.-132 Year-2019 Thana- DEWARIA District- Muzaffarpur

Pravesh Paswan, Male, aged about 28 years, Son of Shivrath Paswan
Resident of Village - Deoria Purani Bazar, P.S.- Deoria, Dist.- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr.Anish Chandra, APP.

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 29-02-2020 Heard learned counsel for the parties.

The petitioner is apprehending arrest in a case registered for the offences punishable under Section 30 (a) of the Bihar Prohibition and Excise Act, 2016, as amended by Amendment Act 8 of 2018. (Hereinafter referred to as ‘The Act’)

The prosecution case as per the written report of Ram Mohan Gahlaut, ASI submitted before the SHO Deoria P.S. Muzaffarpur, is to the effect that after having received a secret information that the petitioner is indulged in the business of illicit liquor, a raid was laid and from back side of the hut of the petitioner, 30 liters of country made liquor were recovered.

It is submitted by the learned counsel for the petitioner that admittedly the said recovery has been made from the back side of the hut of the petitioner, hence, the said recovery cannot be treated to be made from the conscious



physical possession of the petitioner. Learned counsel for the petitioner further submits that the alleged seizure has been made by an officer of the rank of ASI, who is not authorized to make seizure under 73(e) of the Act. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

Learned counsel for the State submits that the said recovery has been made from the possession of the petitioner.

Considering the fact that the said prima facie, recovery appears to have been made from back side of the hut of the petitioner by an officer in the rank of A.S.I., who is not authorized under the Act, to make seizure 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 Special Judge, Excise, Muzaffarpur in connection with Deoria P.S. Case No. 132 of 2019, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

Rahul/Gautam

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