

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4542 of 2020

Arising Out of PS. Case No.-333 Year-2019 Thana- NAVINAGAR District- Aurangabad

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HARENDRA RAM Son of Yugesh Ram Resident of Village - New Nagar
Majhiao, P.S.- Badem O.P., Dist.- Aurangabad.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Leelawati Kumari, Adv.

For the Opposite Party/s : Ms. Nirmala Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 29-02-2020 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 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 Sanjay Kumar Yadav, A.S.I. of Police, Nabinagar Police Station is to the effect that on 28.12.2019, the informant received a secret informant that the petitioner has stored liquor in the village Majhiao. Consequently, a raid was laid and 7.8 litres of Mahua liquor were recovered from a ditch.



It is submitted by learned counsel for the petitioner that admittedly the said recovery has been made from an open area, hence, it cannot be treated to be made from the conscious physical possession of the petitioner. Moreover, the seizure has been made by a police officer in the rank of A.S.I. contrary to the mandate of section 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 APP for the State submits that on the basis of definite information with regard to storing of liquor by the petitioner, the raid was laid and recovery was made.

Considering the fact that the said recovery prima facie does appear to be made from an open area by an officer in the rank of A.S.I., who is not authorized to seize under Section 73(e) of the Act, 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-VII-cum-Special Judge (Excise), Aurangabad, in



connection with Nabinagar P.S. Case No.333 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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