

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.4661 of 2020**

Arising Out of PS. Case No.-244 Year-2019 Thana- NADI P.S. District- Patna

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Pawan Mahto Son of Shankar Mahto Resident of Village-Gulamahiya Chak,  
P.S.-Nadi, District-Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.Yugal Kishore

For the Opposite Party/s : Mr.Amarendra Prasad

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH**  
**ORAL ORDER**

2      02-03-2020      Heard learned counsels for the petitioner and the State.

The petitioner is apprehending arrest in a case registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2018 (hereinafter referred to as 'the Act').

The prosecution case is to the effect that on 04.10.2019, the informant, being A.S.I., of Police received a secret information that petitioner Pawan Mahto and two other co-accused persons are indulged in trading of illicit liquor, consequently, a raid was laid and from the house of co-accused Sursh Mahto, 95 litres of country made liquor and from the cattleshed of co-accused Sankar Mahto, 300 litres of country made liquor were recovered, whereas from the motorcycle parked there, 8.5 litres of country made liquor were recovered and co-accused Suresh



Mahto was apprehended, who disclosed the name of the petitioner as the person who escaped from the scene.

It is submitted by learned counsel for the petitioner that no recovery has been made from the conscious physical possession of the petitioner and the petitioner was not apprehended from the spot. Moreover, seizure has been made by the A.S.I. of Police, who is not authorized to make seizure under 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 submits that the name of the petitioner sprang up on the confession of apprehended co-accused person.

Considering the fact that no recovery has been made from the conscious physical possession of the petitioner, the petitioner was not apprehended from the spot and seizure has been made by a person who is not authorized to make seizure under the Act, coupled with the fact that the petitioner is not having any criminal antecedent, let the above named petitioner be released on anticipatory bail in the event of arrest/surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of like amount each to the



satisfaction of learned Special Judge, Excise, Patna in connection with Nadi P.S. Case No. 244 of 2019, subject to the condition as laid down under Section 438(2) of the Cr. P.C.

**(Dinesh Kumar Singh, J)**

Amrendra/-

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