

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5626 of 2020

Arising Out of PS. Case No.-256 Year-2019 Thana- ISUAPUR District- Saran

Hareram Mahto Son of Heera Mahto Resident of Village - Dolia, P.S.-
Isuapur, Distt - Saran at Chapra.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rabindra Kumar Tiwari, Advocate

For the Opposite Party/s : Mr. J.N. Thakur, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 14-05-2020 Heard Mr. Rabindra Kumar Tiwari, learned counsel
for the petitioner and Mr. J.N. Thakur, learned counsel
appearing for the State.

The matter has been taken up through virtual court
proceeding.

The present application has been preferred on behalf
of the petitioner for grant of bail in connection with Isuapur P.S.
Case No. 256 of 2019 registered for the offences punishable
under Sections 272, 273 of the Indian Penal Code and Section
30(a) of Bihar Prohibition and Excise Act, 2016, as amended by
the Amendment Act 8 of 2018 (hereinafter referred to as the
Act), pending in the Court of learned 2nd Additional Sessions
Judge -cum- Special Judge, Excise, Saran at Chapra.

The prosecution case as per the self recorded



statement of S.I. Ashok Kumar Das, SHO of Isuapur Police Station on 14.12.2019 at 10.00 P.M. is to the effect that on the same day at 7.00 P.M. during evening patrolling a secret information was received that the petitioner, Hareram Mahto had stored huge quantity of spirit. On raid being laid, 1470 litres of spirit kept in the drums were seized from the embankment of the pond and the petitioner was apprehended.

It is submitted by learned counsel for the petitioner that the recovery has been made from an open area and hence, it cannot be treated from the possession of the petitioner and a statement has been made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent. It is further submitted that the investigation has already been concluded.

Learned APP submits that on the secret information being received that the petitioner had stored the spirit the recovery of spirit was made, hence, the offences under the Act are made out.

Considering the fact that the investigation has already been concluded and the recovery has been made from an open area, this Court would have consider the case of the petitioner on merits but contrary to the statement in paragraph 3 of the petition that the petitioner is not having any criminal antecedent



in paragraph 8 of the case diary it has been mentioned that the petitioner is accused in 2 other cases being Isuapur P.S. Case No. 14 of 2018 and Isuapur P.S. Case No. 193 of 2018, hence, application of the petitioner is disposed of with liberty to the petitioner to renew the prayer after taking proper instruction.

Accordingly, this application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/Dks

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