

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10237 of 2020

Arising Out of PS. Case No.-240 Year-2019 Thana- BARURAJ District- Muzaffarpur

GANDHI SAH S/o Paras Sah Resident of Village- Dariya Chhapra, P.S.-
Motipur, Distt- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pawan Kumar Singh

For the Opposite Party/s : Mr.Raj Ballabh Singh

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 04-03-2020 Heard learned counsels for the parties.

The petitioner is apprehending arrest in a case registered for the offences punishable under Sections 272 and 273 of the IPC and 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).

It is alleged that a Scorpio vehicle having registration no. UP76H 0077 was intercepted from which, 258.345 litres of Indian Made Foreign Liquor was recovered.

It is submitted by learned counsel for the petitioner that the petitioner was not present in the alleged vehicle when the seizure was made. Moreover, the seizure has been made by ASI of Police who is not authorized to conduct seizure under Section 73 of the said Act which mandates that the seizure can only be made by a police officer not below the rank of Sub Inspector.



Considering the nature of accusation and the recovery, this Court is not inclined to grant anticipatory bail as the same is, prima facie, not maintainable, however keeping in view the fact that the petitioner was not present in the alleged vehicle when the seizure was made and the seizure has been made by a person who is not authorized for the same, it is a case for consideration of the prayer for regular bail by the learned Court below in case the petitioner surrenders within a period of six weeks and prays for the same in connection with Baruraj P.S. Case No.240 of 2019 pending in the Court of learned Special Judge, Excise, Muzaffarpur.

This application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

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