

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20205 of 2020

Arising Out of PS. Case No.-293 Year-2019 Thana- JANDAHA District- Vaishali

Nitesh Kumar @ Nitesh Sahni Son of Bechan Sahni Resident of Village -
Mukundpur, Gopinath, P.S.- Jandaha, District - Vaishali, Bihar

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anish Kumar

For the Opposite Party/s : Mr.Md. Anbzarul Haque Sahara

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 08-07-2020 The matter has been taken up through virtual Court proceeding.

Heard learned counsel for the petitioner and learned APP for the State.

Since the physical court proceeding is non-functional, due to present pandemic, COVID-19, the matter is listed with defects.

Learned counsel for the petitioner undertakes to remove the defects within three weeks of resumption of physical court proceeding. In the eventuality of non-removal of defects within undertaken period, the office will place the matter before the bench.

The petitioner is apprehending his arrest in a case registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016 as amended by Act 8 of



2018.

The prosecution case, as per the written report of S.I., Vinay Kumar submitted to the Station House Officer, Jandaha Police Station, is to the effect that on 27.11.2019 during patrolling a confidential information was received that in village – Rangreja, three persons are travelling on two motorcycles and delivering liquor, consequently, a raid was laid and three persons were spotted sitting on two motorcycles but on seeing the police party, they managed to flee away but subsequently, their identity was disclosed by local Chaukidar as petitioner, Nitesh Sahni and co-accused Bechan Sahni and Rambabu Sahni. From Bajaj Discover motorcycle, three bottles of 375 ml each of Indian Made Foreign Liquor and from Super Splendor motorcycle, six bottles of 375 ml each of Indian Made Foreign Liquor, total 2.250 litres of Indian Made Foreign Liquor were recovered.

It is submitted by learned counsel for the petitioner that the petitioner was not apprehended from the place of seizure but he admits that Super Splendor motorcycle belongs to the petitioner.

Learned APP submits that the recovery has been made from the motorcycle of the petitioner.



Considering the fact that the recovery has been made from the motorcycle of the petitioner, the anticipatory bail application is not maintainable in view of embargo under Section 76(2) of Bihar Prohibition and Excise Act, 2016 and the ratio laid down by the Full Bench of this Court in the case of Ram Vinay Yadav Vs. State of Bihar, reported in 2019(2) PLJR 1089.

However, keeping in view of quantity of recovery and statement being made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent, it is a case for consideration of prayer for regular bail by the learned Court below, if the petitioner surrenders before the learned Court below within a period of eight weeks from today in connection with Jandaha P.S. Case No. 293 of 2019, pending in the Court of learned Additional Sessions Judge-II -cum- Special Judge, Vaishali at Hajipur.

Let the learned Court below will dispose of the bail application of the petitioner preferably on the same day.

Accordingly, this application is disposed of.

(Dinesh Kumar Singh, J)

DKS/-

U		T	
---	--	---	--

