

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78184 of 2019

Arising Out of PS. Case No.-5 Year-2019 Thana- SIKTI District- Araria

MD. MURSHID, Son of Mustak, Resident of Village-Saharmal Balwat, P.S-Tarabari, District-Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Kundan Kumar Singh
For the Opposite Party/s : Mr.Suresh Prasad Singh

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 26-06-2020 The matter has been taken up through virtual Court proceeding.

Heard learned counsel for the petitioner and 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 the Amendment Act 8 of 2018, (hereinafter referred to as ‘the Act’).

The prosecution case as per the written report of Inspector of SSB submitted before the S.H.O., Sikta Police Station is to the effect that on 15.01.2019 at India-Nepal border, a motorcycle borne person, on seeing the SSB personnel, started fleeing away from the scene, but on chase



being made by the SSB personnel, the person escaped from the scene leaving the motorcycle. During frisking, from the motorcycle in question, 52.2 litre of Indian Made Foreign Liquor were recovered from the motorcycle.

It is submitted by learned counsel for the petitioner that though the petitioner is the registered owner of the motorcycle in question, but he had gifted the same to his brother-in-law, Md. Salim, who immediately after the seizure in the present case was arrested in Sikty P.S. Case No. 04 of 2019 levelling accusation under Section 30(a) of the Bihar Prohibition and Excise Act, 2016, as amended by the Amendment Act 8 of 2018. 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 the motorcycle in question has been found registered in the name of the petitioner.

Considering the recovery of liquor being made from the motorcycle of the petitioner and in view of Section 76(2) of the Act as well as the ratio laid down by a Full Bench of this court in the case of *Ram Vinay Yadav Vs. the State of Bihar* reported in 2019 (3) BLJ 858, the anticipatory bail



application is not maintainable.

Accordingly, the prayer for anticipatory bail of the petitioner in connection with Special Case No. 81 of 2019, arising out of Sikty P.S. Case No. 05 of 2019, pending before the learned 2nd Additional District and Sessions Judge-cum-Special Judge, Excise Act, Araria, is rejected.

With the above observation, this application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

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