

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83828 of 2019**

Arising Out of PS. Case No.-2340 Year-2019 Thana- GOVERNMENT OFFICIAL COMP.
District- Bhojpur

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Nikky Kumar @ Nicky Kumar Son of Binod Prasad @ Binod Kumar R/o
Mohalla- Ramgarhiya, P.S.- Arrah Town, District- Bhojpur Arrah.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sarveshwar Tiwary
For the Opposite Party/s : Mr.Manoj Kumar

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

2 18-02-2020 Heard learned counsel for the petitioner and learned
APP for the State.

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

There is recovery of 49.500 litres of Indian Made
Foreign Liquor from the open land behind the house of the
petitioner.

It is submitted by learned counsel for the petitioner
that the recovery cannot be treated from the conscious physical
possession of the petitioner as the place of recovery does not
belong to the petitioner, statement to that effect has been made
in paragraph 7 of the petition, which reads as follows:-



“That nothing has been recovered from the conscious possession of the petitioner from perusal of the F.I.R. it is crystal clear that alleged illegal wine has been recovered by the police from Parti land open space which is 500 meter away from the house of the petitioner. The said land not belongs to the petitioner. So there no case is made out under Section 30(a) of Bihar Excise Amendment Act, 2016 against the petitioner.”

Moreover, the petitioner is not having any criminal antecedent, statement to that effect has been made in paragraph 3 of the petition.

Learned APP submits that the recovery has been made from the open land behind the house of the petitioner.

Considering the fact that the recovery has been made from an open area and statement being made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent, let the above named petitioner be released on anticipatory bail in the event of arrest or 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 the like amount each to the satisfaction of learned 4th Additional Sessions Judge -cum- Special Judge, Excise Act, Bhojpur at Ara in connection with Excise Case No.



2340 of 2019, subject to the conditions as laid down under
Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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