

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.86791 of 2019

Arising Out of PS. Case No.-94 Year-2019 Thana- NAUHATTA District- Rohtas

Ram Aashish Yadav Son of Late Lal Munni Yadav Resident of Magardah,
P.S-Nauhatta, District-Rohtas at Sasaram.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Deovind Kumar Singh

For the Opposite Party/s : Mr.Sucheta Yadav

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 24-02-2020 Heard learned counsel for the petitioner and learned

APP for the State.

The petitioner is apprehending his arrest in a case registered for the offences punishable under Sections 30(a), 35 & 37(c) of Bihar Prohibition and Excise Act, 2016 as amended by Amendment Act 8 of 2018.

The prosecution case as per the written report of Assistant Sub-Inspector of Police submitted to Station House Officer of Nauhatta Police Station is to the effect that on 06.11.2019 at 5.30 P.M. on secret information that the illegal liquor is being sold in the village Bhagardah, a raid was laid when on seeing the police party, one person escaped from the scene while five persons were arrested, out of which, from the possession of co-accused Ram Pravesh Yadav, in a plastic container, 3.5 litres of country made liquor were recovered, who suggested that the liquor is being brought by the petitioner Ram



Ashish Yadav, who is the brother of the co-accused Ram Pravesh Yadav.

It is submitted by learned counsel for the petitioner that even assuming the accusation to be true, no offence is made out against the petitioner as no recovery has been made from conscious physical possession of the petitioner. It is further submitted that the seizure has been made by Assistant Sub-Inspector of Police whereas Section 73(e) of Bihar Prohibition and Excise Act, 2016 mandates that the seizure to be made by an officer not below the rank of Sub-Inspector of Police. A statement has been made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP submits that the petitioner managed to escape from the scene.

Considering the fact that the recovery has not been made from the conscious physical possession of the petitioner 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 Additional District & Sessions Judge-II -cum- Special Judge, Excise, Rohtas, Sasaram in connection with Nauhatta P.S. Case No. 94 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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