

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13210 of 2020**

Arising Out of PS. Case No.-380 Year-2019 Thana- SHIVSAGAR District- Rohtas

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Ram Ekbal Singh (Male), aged about 45 years, Son of Late Baidnath Singh,
Resident of Village - Bamhaur, P.S.- Shivsagar, District- Rohtas.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Surendra Kumar Mishra, Advocate

For the State : Ms. Renu Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date : 14-10-2020

The matter has been heard *via* video conferencing due to
circumstances prevailing on account of the COVID-19 pandemic.

2. Heard Mr. Surendra Kumar Mishra, learned counsel
for the petitioner and Ms. Renu Kumari, learned Additional Public
Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioner apprehends arrest in connection with
Shivsagar PS Case No. 380 of 2019 dated 26.11.2019, instituted
under Section 30(a) of the Bihar Prohibition and Excise Act, 2016
(hereinafter referred to as the ‘Act’).



4. The allegation against the petitioner is that from his house upon raid by the police 118 bottles of illicit liquor, totalling 116.280 litres was recovered.

5. Learned counsel for the petitioner submitted that as per the FIR itself, it was the old house of the petitioner. Learned counsel submitted that the petitioner was not living in the house and, thus, he is neither responsible nor aware of the liquor kept in the house by anyone else. Learned counsel submitted that the petitioner has no criminal antecedent and he is innocent. It was submitted that the recovery is not from his conscious possession.

6. Learned APP submitted that the application is not maintainable in view of bar of Section 76(2) of the Act, which does not permit an application for grant of pre-arrest bail under Section 438 of the Code of Criminal Procedure, 1973. It was submitted that once there is admission that the recovery is from the house of the petitioner, the distinction of old or new house cannot be made as under the law such storage is also an offence and once an offence is clearly made out under the Act, in the FIR itself, the present application is not maintainable.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court



finds substance in the objection of learned APP with regard to maintainability of the application.

8. In view thereof, the application stands dismissed as not maintainable.

(Ahsanuddin Amanullah, J)

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