

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12828 of 2020

Arising Out of PS. Case No.-202 Year-2019 Thana- KATHAIYA District- Muzaffarpur

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Chintu Rai, aged about 34 years, Male, son of Bachcha Nath Rai, resident of
Village-Patti Aswari, P.S.-Kathaiya, District-Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar, Advocate

For the Opposite Party/s : Mr. Md. Aslam Ansari, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 07-10-2020

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

2. Heard Mr. Manoj Kumar, learned counsel for the petitioner and Mr. Md. Aslam Ansari, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioner apprehends arrest in connection with Kathaiya PS Case No. 202 of 2019 dated 25.12.2019, instituted under Sections 272/273/34 of the Indian Penal Code and 30(a) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the ‘Act’).

4. The allegation against the petitioner is that when the police reached his hut on information that he was involved in



the business of illicit liquor, he had run away, but from his hutment and outside it, huge amount of liquor was recovered.

5. At the outset, learned APP submitted that the application is not maintainable in terms of Section 76(2) of the Act.

6. Having considered the matter, the Court finds merit in the objection of learned APP. There is direct allegation of recovery of huge amount of recovery from the house/hutment of the petitioner. Thus, for the present, the Court would not weigh the defence or go into the other aspects on merit. When the law bars the application, the Court would not proceed in the matter.

7. For reasons aforesaid, the application stands dismissed as not maintainable.

(Ahsanuddin Amanullah, J)

Anjani/-

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