

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 13125 of 2020

Arising Out of PS. Case No.-513 Year-2019 Thana- Motipur District-Muzaffarpur

=====

Munna Singh, aged about 28 years, Male, son of Late Dhruvnath Singh,
resident of Village-Mahna, P.S.- Motipur, District-Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

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

For the Opposite Party/s : Mr. Brajendra Nath Pandey, APP

=====

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. Manoj Kumar, learned counsel for the petitioner and Mr. Brajendra Nath Pandey, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The matter was taken up yesterday but since learned counsel for the petitioner had not appeared, by way of last indulgence, it was adjourned.

4. Today, learned counsel for the petitioner submitted that yesterday he was busy otherwise. The Court finds the situation to be unfortunate. Once learned counsel has accepted



power on behalf of the petitioner, it is his duty to appear in the matter and then make a prayer for accommodation, as may be required.

5. Be that as it may, the Court has proceeded to hear the matter on merits.

6. The petitioner apprehends arrest in connection with Motipur PS Case No. 513 of 2019 dated 23.12.2019, instituted under Sections 30(a)/41(1)(2) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the 'Act').

7. The allegation against the petitioner is that from his house 22.5 litres of liquor in 34 bottles of different brands were recovered.

8. Learned counsel for the petitioner submitted that he has no instructions as he has returned the file. However, as nobody else appeared on behalf of the petitioner, either yesterday or today, on merits, he submitted that the petitioner was not present in the house and, thus, it was not from his conscious possession and that he has no criminal antecedent.

9. Learned APP submitted that since there is recovery of liquor from the house of the petitioner, 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.

10. 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.

11. Accordingly, the application stands dismissed as not maintainable.

(Ahsanuddin Amanullah, J)

Anjani/-

AFR/NAFR	
U	
T	

