

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13472 of 2020

Arising Out of PS. Case No.-158 Year-2019 Thana- BHAWANIPUR District- Purnia

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Pramod Kumar Mandal @ Pramod Mandal aged about 34 years (M), S/o Sri Mahendra Mandal, Resident of Village- Lathi, P.S.- Bhawanipur (Akbarpur), District- Purnea.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Amit Kumar Anand, Advocate
For the State : Mr. Parmanand Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 15-10-2020

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

2. Heard Mr. Amit Kumar Anand, learned counsel for the petitioner and Mr. Parmanand Kumar, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioner apprehends arrest in connection with Special Excise Case No. 806 of 2019, arising out of Bhawanipur (Akbarpur) PS Case No. 158 of 2019 dated 15.09.2019, instituted under Sections 272 and 273 of the Indian Penal Code and 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 from a white coloured gallon, about 5 litres of country made liquor was recovered.

5. Learned counsel for the petitioner submitted that the petitioner was not apprehended at the place from where the recovery has been made. It was further submitted that there is no eye witness to the seizure and that the petitioner has no criminal antecedent.

6. Learned APP submitted that since the recovery is from the house of the petitioner, there being direct allegation under the Act, the present application for grant of pre-arrest bail under Section 438 of the Code of Criminal Procedure, 1973, is not maintainable in view of bar of Section 76(2) of the Act.

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. Accordingly, the application stands dismissed as not maintainable.

(Ahsanuddin Amanullah, J)

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