

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 13082 of 2020

Arising Out of PS. Case No.-24 Year-2020 Thana- SHAHPUR (Bahoranpur O.P.) District-
Bhojpur

- =====
1. Dashrath Paswan, aged about 42 years, Male, S/o Late Chhote Lal Paswan
 2. Meera Devi, aged about 40 years, Female, W/o Dashrath Paswan
- Both R/o Village –Damodarpur, P.S. –Shahpur (Bahoranpur O.P.), District-
Bhojpur (Bihar)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pankaj Kumar Singh, Advocate
For the Opposite Party/s : Mr. Manoj Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 13-10-2020

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

2. Heard Mr. Pankaj Kumar Singh, learned counsel for the petitioners and Mr. Manoj Kumar, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. At the outset, learned counsel for the petitioners submitted that he be permitted to withdraw the application on behalf of petitioner no. 1, as he has been arrested.

4. Accordingly, the application on behalf of petitioner no. 1, Dashrath Paswan, stands dismissed as withdrawn and is



restricted to petitioner no. 2, Meera Devi.

5. The petitioner no. 2 apprehends arrest in connection with Shahpur (Bahoranpur OP) PS Case No. 24 of 2020 dated 28.01.2020, instituted under Section 30(a) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the 'Act').

6. The allegation against petitioner no. 2 is that from her house 45 bottles of English wine totaling 8.100 litres was recovered and from the hut situated in front of her house, from a black coloured bag, 5 litres of *Mahua* wine was also recovered.

7. Learned counsel for the petitioner no. 2 submitted that she is a lady and was not in the house. It was further submitted that the recovery is of only 13 litres of liquor and she has no criminal antecedent.

8. Learned APP submitted that the petition is not maintainable in view of bar of Section 76(2) of the Act. It was submitted that there being recovery from the house of 45 bottles of English wine, clearly offence under the Act is made out and, thus, a petition seeking pre-arrest bail under Section 438 of the Code of Criminal Procedure, 1973 would not be maintainable.

9. 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.

10. Accordingly, the application on behalf of petitioner no. 2, Meera Devi, stands dismissed, as not maintainable.

(Ahsanuddin Amanullah, J)

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