

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13382 of 2020**

Arising Out of PS. Case No.-20 Year-2020 Thana- RAMPUR District- Gaya

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Birju Manjhi @ Birju Sonar, aged about 27 years (Male), Son of Mohan Sao,
Resident of Village - Line Bhui Toli, P.S.- Rampur, District - Gaya.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Sinha, Advocate
For the State : Mr. Md. Arif, 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. Ajay Kumar Sinha, learned counsel for the
petitioner and Mr. Md. Arif, learned Additional Public Prosecutor
(hereinafter referred to as the ‘APP’) for the State.

3. Though, the name of Mr. Satyadeo Singh Yadav,
learned APP appeared in the cause list and link for joining the
proceeding having been sent to him, when the Technical Assistant
talked to him, he informed that as he has not been given the file by
the office of the Advocate General, he would not be appearing.

4. In such circumstances, Mr. Md. Arif, learned APP has
been heard on behalf of the State.



5. The petitioner apprehends arrest in connection with Rampur PS Case No. 20 of 2020 dated 21.01.2020, instituted under Section 30(a) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the 'Act').

6. The allegation against the petitioner is that from his under-construction house, in a sack, in 14 plastic bottles of 2 litres capacity each, totalling 27 litres, country made *Mahua* wine was recovered.

7. Learned counsel for the petitioner submitted that the petitioner was not living in the house as is still under construction and he cannot be held responsible for the recovery made from the said place. It was further submitted that the petitioner has no criminal antecedent.

8. Learned APP submitted that as recovery is admittedly from the house of the petitioner, Section 76(2) of the Act bars an application for grant of pre-arrest bail under Section 438 of the Code of Criminal Procedure, 1973 and, thus, the present application is not 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 with regard to maintainability of the application.



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

(Ahsanuddin Amanullah, J)

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