

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20063 of 2020

Arising Out of PS. Case No.-32 Year-2020 Thana- GOVERNMENT OFFICIAL COMP.
District- Samastipur

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Basant Paswan S/o Late Ram Swarup Paswan Resident of Village- Singhiya,
Ward No.12, P.S.- Singhiya, Distt- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Raja Ram Mishra
For the Opposite Party/s : Mr.Shaheen Begum

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 07-07-2020 The matter has been taken up through virtual Court proceeding.

Heard learned counsel for the petitioner and learned APP for the State.

Since the physical court proceeding is non-functional, due to present pandemic, COVID-19, the matter is listed with defects.

Learned counsel for the petitioner undertakes to remove the defects within three weeks of resumption of physical court proceeding. In the eventuality of non-removal of defects within undertaken period, the office will place the matter before the bench.

The petitioner is apprehending his arrest in a case



registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016 as amended by Act 8 of 2018.

It is alleged that 12 litres of country made liquor were recovered from the hutment of the petitioner.

It is submitted by learned counsel for the petitioner that the recovery has not been made from conscious physical possession of the petitioner rather the same has been made from the hutment and a statement has been made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP submits that the recovery has been made from the hutment of the petitioner.

Considering the fact that this is an admitted position that the recovery has been made from the hutment of the petitioner, hence, in view of the provision of non-maintainability of anticipatory bail application under Section 76(2) of Bihar Prohibition and Excise Act, 2016 and the ratio laid down by the Full Bench of this Court in the case of Ram Vinay Yadav Vs. State of Bihar, reported in 2019(2) PLJR 1089, the anticipatory bail is not maintainable.

Accordingly, the prayer for anticipatory bail of the



petitioner is rejected in connection with Excise Case No. 32 of 2020, pending in the Court of learned ADJ-II -cum- Special Judge, Excise Act, Samastipur.

Accordingly, this application is disposed of.

(Dinesh Kumar Singh, J)

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