

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 28116 of 2020**

Arising Out of PS Case No.-393 Year-2019 Thana- VAISHALI District- Vaishali

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Dilip Kumar, aged about 30 years, Male, Son of Lakhendra Ray @ Lakhindra
Rai, Resident of Village- Salempur, P.S.- Lalganj, District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Ms. Bela Singh, Advocate
For the State : Mr. Akbar Ali, APP

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH
ORAL JUDGMENT**

Date : 27-01-2021

The matter has been heard *via* video conferencing.

2. Heard Ms. Bela Singh, learned counsel for the
petitioner and Mr. Akbar Ali, learned Additional Public Prosecutor
(hereinafter referred to as the ‘APP’) for the State.

3. The petitioner apprehends arrest in connection with
Vaishali PS Case No. 393 of 2019 dated 29.10.2019, instituted
under 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 the motorcycle he was riding, 20 litres of liquor was recovered from the sack tied on its pillion seat.

5. Learned counsel for the petitioner submitted that he was driving the motorcycle and met with an accident with a bicycle being driven by one Munni Lal Rai and he and Munni Lal Rai were injured and taken to hospital and the motorcycle was left there and later liquor was planted on his motorcycle for falsely implicating him by the other side which was demanding money from him. It was submitted that the petitioner has no connection with the liquor.

6. Learned APP raised a preliminary objection and submitted that under Section 76(2) of the Act, petition for anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973 is not maintainable. It was submitted that once there is recovery from the motorcycle driven by the petitioner, clearly an offence is made out under the Act and, thus, the present application would not be maintainable.

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. As per the



allegation, since an offence is made out under the Act, the present petition clearly is not maintainable.

8. Accordingly, the application stands disposed off as not maintainable.

(Ahsanuddin Amanullah, J.)

P. Kumar

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