

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 32820 of 2020

Arising Out of Complaint Case No.-6 Year-2020 Thana- GOVERNMENT OFFICIAL
COMP. District- Banka

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Mangal Yadav, Aged about 30 years, Male, Son of Prakash Yadav, Resident of
Village - Lattipur, PS- Bihpur, District – Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pankaj Kumar Sinha, Advocate

For the State : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 09-03-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Pankaj Kumar Sinha, learned counsel for the petitioner and Mr. Jharkhandi Upadhyay, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioner apprehends arrest in connection with Banka Excise Complaint Case No. 6 of 2020 dated 18.01.2020, 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 his white colour Titanium car, upon search, 156.600 litres of illicit liquor was recovered.

5. Learned counsel for the petitioner submitted that he had given on hire the vehicle to four persons who were caught on



the car and he is not responsible for what they were bringing on the same. It was further submitted that the petitioner was neither at the spot nor anything has been recovered from his possession and he has no criminal antecedent.

6. Learned APP submitted that in view of there being recovery from the vehicle of the petitioner, the present application would not be maintainable due to bar of Section 76(2) of the Act as an offence under the Act is made out.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that since the undisputed position is that from the vehicle owned by the petitioner, there is recovery of 156.600 litres of illicit liquor, an offence is *prima facie* made under the Act and, thus the bar of Section 76(2) of the Act would come into play and the present application would not be maintainable.

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

(Ahsanuddin Amanullah, J.)

P. Kumar

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