

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 32848 of 2020

Arising Out of Complaint Case No.-84 Year-2020 Thana- GOVERNMENT OFFICIAL
COMPLAINT District- Begusarai

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Shrawan Paswan, Male, aged about 25 years, Son of Ranjit Paswan, Resident
of Village - Gardhpura, Ward No. -15, PS - Gardhpura, District - Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Yogesh Kumar, Advocate

For the State : Mr. Mukeshwar Dayal, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 12-03-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Yogesh Kumar, learned counsel for the
petitioner and Mr. Mukeshwar Dayal, learned Additional Public
Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioner apprehends arrest in connection with
Case No. 84C2 of 2020 dated 16.05.2020, instituted under
Sections 30(a) and 30(c) of the Bihar Prohibition and Excise Act,
2016 (hereinafter referred to as the ‘Act’).



4. The allegation against the petitioner is that from the courtyard in front of his house 7 litres of mahua wine, 5 kgs. of fragmented *mahua*, one machine, one gas stove and one cylinder was recovered.

5. Learned counsel for the petitioner submitted that it was a joint house and not in exclusive possession of the petitioner.

6. Learned APP submitted that, at this stage, the Court would not go into the defence of the petitioner as the present application itself is not maintainable in view of bar of Section 76(2) of the Act which prohibits an application under Section 438 of the Code of Criminal Procedure, 1973.

7. Having considered the matter, the Court finds substance in the objection of learned APP. The allegation that liquor was recovered from the courtyard of the petitioner, *prima facie*, offence is made out under the Act and, thus, the application for grant of pre-arrest bail would not be maintainable.

8. In view thereof, the application stands disposed off as not maintainable.

9. However, on prayer made by learned counsel for the petitioner, the Court would observe that if the petitioner appears before the Court below and prays for bail, within four weeks from today, the same shall be considered on its own merits, in



accordance with law, without being prejudiced by the present order.

(Ahsanuddin Amanullah, J.)

P. Kumar

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