

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30706 of 2020

Arising Out of PS. Case No.-71 Year-2020 Thana- DURGAWATI District- Kaimur (Bhabua)

Mukesh Kumar Pandey, aged about 39 years, (Male), Son of Chhatradhari Pandey, R/o 1/1 Mohanlal Bahalwala Road, Bally (m), Howrah, West Bengal.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashutosh Tripathy, Advocate
For the State : Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 30-01-2021

Heard Mr. Ashutosh Tripathy, learned counsel for the petitioner and Mr. Jharkhandi Upadhyay, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

2. The petitioner apprehends arrest in connection with Durgawati PS Case No. 71 of 2020 dated 08.03.2020, instituted under Section 30(a) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the 'Act').

3. The allegation against the petitioner is that from the truck owned by him 22 bottles of whiskey along with some medicines was recovered.

4. Learned counsel for the petitioner submitted that he has no connection with the same as it was the driver who had loaded the same without his permission or knowledge.



5. Learned APP raised a preliminary objection and submitted that Section 76(2) of the Act bars any application for grant of anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973 and, thus, the present application is not maintainable.

6. 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.

7. Once the ownership of the truck is not denied by the petitioner, there being recovery of liquor from the same, an offence is made out under the Act and in such background, no application for grant of pre-arrest bail would be maintainable.

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

(Ahsanuddin Amanullah, J)

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