

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31660 of 2020

Arising Out of PS. Case No.-182 Year-2020 Thana- HILSA District- Nalanda

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Viru Singh @ Ashok Kumar, aged 43 years, Male, Son of Late Kamta Singh
Resident of Village - Momindpur, P.S.- Hilsa, Distt.- Nalanda.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Mukherjee, Advocate
For the State : Mr. Shyam Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 08-02-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Ajay Mukherjee, learned counsel for the petitioner and Mr. Shyam Kumar Singh, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioner apprehends arrest in connection with Hilsa PS Case No. 182 of 2020 dated 16.04.2020, instituted under Sections 30(a)/56(d) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the 'Act').

4. The allegation against the petitioner is that from his house 415 litres of wine, packing machine and 5000 printed wrappers were recovered.

5. Learned APP raised a preliminary objection and submitted that the application is not maintainable under Section



76(2) of the Act which places bar for any application under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail for any offence under the Act. It was submitted that *prima facie* a case is made out under the Act as the recovery is from the house owned by the petitioner and the Court would not go into the defence of the petitioner at this stage which is also not required.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds substance in the contention of learned APP.

7. Since the recovery is from the house of the petitioner, an offence is made out under the Act and thus, the present application for grant of pre-arrest bail is not maintainable.

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

(Ahsanuddin Amanullah, J)

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