

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 31644 of 2020

Arising Out of PS Case No.-134 Year-2020 Thana- BAHADURPUR District- Darbhanga

Ashok Kumar Choudhary, aged about 43 years, (Male) Son of Late Laxmi Narayan Choudhary, Resident of Ward no. 8, Near Ram Janki Mandir, Ekmi Ghat, PS- Bahadurpur, District - Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Amarendra Narayan, Advocate
For the State	:	Ms. Shaheen Begum, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 12-02-2021

Heard Mr. Amarendra Narayan, learned counsel for the petitioner and Ms. Shaheen Begum, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

2. The petitioner apprehends arrest in connection with Bahadurpur PS Case No. 134 of 2020 dated 10.03.2020, 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 two persons on motorcycle owned by the petitioner upon chase by the police, fell down on the road and between them they had two bags but only one person was apprehended and disclosed the name of another person who was the son of the petitioner and on search Rs. 9,000/- was found from his pocket and 17.280 litres of whisky.



4. Learned counsel for the petitioner submitted that the person arrested has named the son of the petitioner and, thus, he is not involved in the said transaction. However, ownership of the motorcycle was not denied.

5. Learned APP raised a preliminary objection and submitted that the application 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 for grant of anticipatory bail.

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. Once the motorcycle owned by the petitioner was caught being used for carrying liquor, an offence is made out under the Act and, thus, the present application would not be maintainable.

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

(Ahsanuddin Amanullah, J.)

P. Kumar

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