

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34674 of 2020

Arising Out of PS. Case No.-29 Year-2019 Thana- MAGADH MEDICAL COLLEGE
District- Gaya

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Sohan Chaudhary aged about 28 years (male) son of late Sarjug Chaudhary,
resident of Village-Parasawan, Nawadih, P.S. - Magadh Medical, District -
Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vinod Kumar, Advocate
For the State : Mr. Bhanu Pratap Singh, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 28-04-2021

The matter has been heard via video conferencing.

2. Heard Mr. Vinod Kumar, learned counsel for the
petitioner and Mr. Bhanu Pratap Singh, learned Additional
Public Prosecutor (hereinafter referred to as the ‘APP’) for the
State.

3. The petitioner apprehends arrest in connection with
Magadh Medical P.S. Case No. 29 of 2019 dated 27.01.2019,
instituted under Sections 30(a)(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 1.5 litres of country made liquor was recovered.

5. Learned counsel for the petitioner submitted that



the petitioner was not found at his house when the police had conducted the raid and it is the joint house of the petitioner with other family members and the recovery cannot be attributed to him. It was further submitted that petitioner has no criminal antecedent.

6. Learned APP submitted that from the house owned by the petitioner, there is recovery of country made liquor and thus, the present application is not maintainable in view of bar of Section 76(2) of the Act.

7. 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. As there is recovery of liquor from the house of the petitioner, the present application under Section 438(2) of the Code of Criminal Procedure, 1973 would not be maintainable.

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

(Ahsanuddin Amanullah, J.)

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