

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 31872 of 2020**

Arising Out of PS Case No.-132 Year-2020 Thana- MOHIUDDIN NAGAR District-
Samastipur

=====

Sanjay Choudhary, Male aged about 35 years, Son of Lalu Yadav, Resident of
Sivaisinghpur, PS Mohiuddin Nagar, District - Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Bijay Bhushan Prasad, Advocate

For the State : Ms. Anita Kumari Singh, APP

=====

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 02-03-2021

Heard Mr. Bijay Bhushan Prasad, learned counsel for
the petitioner and Ms. Anita Kumari Singh, learned Additional
Public Prosecutor (hereinafter referred to as the 'APP') for the
State.

2. The petitioner apprehends arrest in connection with
Mohiuddin Nagar PS Case No. 132 of 2020 dated 10.04.2020,
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 his house, when police went to raid on secret information, 19.250 litres of Indian Made Foreign Liquor was recovered.

4. Learned APP at the outset, raised a preliminary objection and submitted that the application is not maintainable due to bar of Section 76 (2) of the Act, which prohibits an application for grant of anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973. It was submitted that since the seizure has been effected from the house of the petitioner, an offence is made out under the Act and, thus, the bar would apply.

5. Learned counsel for the petitioner could not meet the objection.

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. The recovery being made from the house of the petitioner, *prima facie* an offence is made out under the Act and thus the bar of Section 76 (2) of the Act would apply.

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

8. However, on prayer made by learned counsel for the petitioner, it is observed that if the petitioner appears before the



Court below and prays for bail, the same shall be considered on its own merits, in accordance with law, without being prejudiced by the present order.

(Ahsanuddin Amanullah, J.)

Anand Kr.

AFR/NAFR	
U	
T	

