

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.31998 of 2020**

Arising Out of PS. Case No.-112 Year-2019 Thana- LAUKAHI District- Madhubani

Md. Samshad, aged about 30 years, Gender-Male, Son of Lukaman, Resident of Village - Kariaut, P.S.- Laukahi, District - Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

|                      |   |                                    |
|----------------------|---|------------------------------------|
| For the Petitioner/s | : | Mr. Ravindra Kumar Singh, Advocate |
| For the State        | : | Mr. Uday Pratap Singh, APP         |

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

**Date : 16-03-2021**

Heard Mr. Ravindra Kumar Singh, learned counsel for the petitioner and Mr. Uday Pratap Singh, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

2. The petitioner apprehends arrest in connection with Laukahi PS Case No. 112 of 2019 dated 16.06.2019 corresponding to G.R. No. 1085 of 2019, 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 he was the person who was driving the silver coloured Santro car which was left behind and the petitioner is said to have fled away from the



spot and from which 340.800 litres of Nepali country-made wine was recovered.

4. Learned counsel for the petitioner submitted that the car does not belong to him and that the villagers and local chowkidar had taken his name with ulterior motive due to local village rivalry. It was submitted that the petitioner has no criminal antecedent.

5. Learned APP submitted that the petitioner being recognized by the villagers, who were in a position to recognize him, as the person who had fled away from the Santro car from which there is recovery of illegal liquor, the present application is not maintainable in view of bar of Section 76(2) of the Act as *prima facie* case is made out under the Act.

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. The petitioner being recognized by the villagers as a person who had fled away from the Santro Car, upon chase by the police and from which there was recovery of 340.800 litres of illegal Nepali country-made liquor, the present application is not fit to be entertained in view of bar of Section 76(2) of the Act.



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 surrenders before the Court below and prays for bail, within four weeks from today, the same shall be considered on its own merits, in accordance with law, without being prejudiced by the present order.

**(Ahsanuddin Amanullah, J)**

Anjani/-

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