

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33894 of 2020

Arising Out of PS. Case No.-104 Year-2020 Thana- GOVERNMENT OFFICIAL COMP.
District- Begusarai

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Setu Kumar @ Setu Singh, aged about 20 years, Sex-Male, Son of
Gowardhan Singh @ Gowardhan Choudhary Resident of Village- Bagwara,
Police Station- Muffasil (Singhaul O.P.), District- Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bipin Kumar, Advocate
For the State : Mr. Dashrath Mehta, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 15-03-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Bipin Kumar, learned counsel for the
petitioner and Mr. Dashrath Mehta, learned Additional Public
Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioner apprehends arrest in connection with
Excise Case No. 104C2 of 2020 dated 23.06.2020, instituted under
Section 30(a) of the Bihar Prohibition and Excise Act, 2016
(hereinafter referred to as the ‘Act’).

4. The allegation against the petitioner is that from the
land adjacent to the boundary of the house of the petitioner, under
the ground, upon search, 46.275 litres of illegal liquor was
recovered.



5. Learned counsel for the petitioner submitted that the recovery is from outside of the premises of the petitioner. It was further submitted that the recovery has been made from the semi-constructed house of the petitioner and that the petitioner has no criminal antecedent.

6. Learned APP submitted that the recovery was from the land in between the boundary and the house of the petitioner i.e., within the premises and not outside the premises. Thus, it was submitted that 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. Since there is allegation of recovery of liquor near the boundary of the house of the petitioner, *prima facie*, offence is made out under the Act and thus, the bar of Section 76(2) of the Act would come into play.

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

(Ahsanuddin Amanullah, J)

Anjani/-

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