

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33923 of 2020

Arising Out of PS. Case No.-93 Year-2020 Thana- MAKER District- Saran

Rahul Kumar, aged about 22 years, gender- male, Son of Paspati Sahni,
Resident of Village- Badhichak, P.S.- Maker, District- Saran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Rajesh Kumar, Advocate
For the State	:	Ms. Gulnar Begum, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 22-03-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Rajesh Kumar, learned counsel for the petitioner and Ms. Gulnar Begum, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioner apprehends arrest in connection with Maker PS Case No. 93 of 2020 dated 22.07.2020, instituted under Sections 30/30(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 hut near his house, 100 litres of countrymade *Mahua* wine was recovered.

5. Learned counsel for the petitioner submitted that the hut does not belong to the petitioner and he is not responsible for such recovery. It was submitted that the



petitioner is a young student having no criminal antecedent.

6. 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. It was submitted that the allegation being that the hut was near the house, *prima facie*, a case is made out under 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. The allegation being that on secret information with regard to the petitioner being involved in liquor business, when the police went, in the hut near his house, 100 litres of countrymade *Mahua* liquor was recovered, an offence is made out under the Act and, thus, the present application would not be maintainable.

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

(Ahsanuddin Amanullah, J)

J. Alam/-

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