

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37134 of 2020

Arising out of PS. Case No.-183 Year-2020 Thana- ALAMGANJ District- Patna

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1. Ravi Kumar, aged about 30 years, Gender-Male, S/o Bijly Yadav, Resident of Village - Naujar Ghat, Near Chitragupt Mandir, P.S. - Khajekalan, District – Patna.
 2. Nitish Ray @ Nitish Kumar, aged about 28 years, Gender-Male, S/o Jaj Ray @ Jay Ray Resident of Village - Gurhatta, Nutan Ghat, Police Station - Khajekalan, District – Patna.

... .. Petitioner/s

Versus

1. The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Jay Ram Prasad, Advocate
For the State	:	Mr. Arun Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 02-07-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Jay Ram Prasad, learned counsel for the petitioners and Mr. Arun Kumar Pandey, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioners apprehend arrest in connection with Alamganj PS Case No. 183 of 2020 dated 07.03.2020, instituted under Sections 30(a) and 37(c) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the ‘Act’).

4. The allegation against the petitioners is that while police were on patrolling a secret information was received that huge quantity of liquor was coming and when they reached near



Minapur Domkhana, they saw one Tata Magic vehicle and some persons were present and when raid was conducted, in the vehicle one person was arrested in a drunken state while other persons taking the benefit of darkness fled away. It is further alleged that the driver Bablu Kumar who was also caught as well as the other person, disclosed the name of the petitioners as the persons who had fled away and further that the petitioners were the associates. From the vehicle 27 tubes, each filled with 50 litres of *mahua* wine was recovered, the total being 1350 litres.

5. Learned counsel for the petitioners submitted that they have no connection with the vehicle or the liquor recovered and only because of the statement of the driver they have been implicated. It was further submitted that the name of the petitioners have been introduced at the behest of the police as already there is another case under the Act against them of the year 2019.

6. Learned APP submitted that the driver and the other person who was caught with huge quantity of liquor, have disclosed that it was the petitioners who had run away taking advantage of darkness and that the petitioners were associates of the two arrested persons. Thus, learned APP contended that the present application would not be maintainable due to bar of



Section 76(2) of the Act as *prima facie* offence is made out under the Act, that too upon the disclosure made by the persons who were arrested. It was further contended that despite having antecedent of being accused in another case under the Act the petitioners having again indulged in such activity clearly shows that they have misused the earlier privilege of bail granted to them, which would also independently disentitle them for any further indulgence as there has been repetition of offence, which is violation of one of the basic conditions for release on bail of the petitioners in the other case.

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.

8. For the reasons aforesaid, the petition stands dismissed, both on merits as well as on the ground of non-maintainability.

(Ahsanuddin Amanullah, J)

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