

(2021) 03 PAT CK 0012

Patna High Court

Case No: Criminal Miscellaneous No. 31934 Of 2020

Kanhaiya Kumar

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision: March 2, 2021

Acts Referred:

- Bihar Prohibition And Excise Act, 2016 - Section 30(a), 76(2)

Hon'ble Judges: Ahsanuddin Amanullah, J

Bench: Single Bench

Advocate: Bipin Kumar, Manoj Kumar

Final Decision: Dismissed

Judgement

1. The matter has been heard via video conferencing.
2. Heard Mr. Bipin Kumar, learned counsel for the petitioner and Mr. Manoj Kumar, learned Additional Public Prosecutor (hereinafter referred to as the "APP") for the State.
3. The petitioner apprehends arrest in connection with Excise Case No. 103C2 of 2020 dated 17.10.2019, instituted under Sections 30(a) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the "Act").
4. The allegation against the petitioner is that 3015.360 litres of liquor of different brands, which was seized from the truck bearing Punjab registration, belonged to him.
5. Learned counsel for the petitioner submitted that he has been falsely implicated without anything there to link him with the consignment. It was further submitted that there has been no recovery from the premises of the petitioner and he has no criminal antecedent.

6. Learned APP submitted that the driver who was arrested belonged to Punjab and he could not have known that there was any person by the name of the petitioner at Begusarai so as to falsely implicate him and thus, whatever was stated by the driver is as per the information he had which cannot be said to be false, at this stage. Thus, it was submitted that once the liquor has been alleged to belong to the petitioner, the petition would also not be 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 is not inclined to grant pre-arrest bail to the petitioner.

8. Accordingly, the application stands dismissed.

9. However, on prayer for by learned counsel for the petitioner, it is observed that upon the petitioner appearing before the Court below and praying for bail, the same shall be considered on its own merits, in accordance with law, without being prejudiced by the present order.