

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38323 of 2020

Arising Out of PS. Case No.-129 Year-2019 Thana- CHANAN District- Lakhisarai

1. VASUDEV KODA son of Sahdeo Koda Resident of Village- Dargah Tola Kachhua, P.S.- Chanan, District- Lakhisarai
2. Shika Koda son of Baldeo Koda Resident of Village- Dargah Tola Kachhua, P.S.- Chanan, District- Lakhisarai
3. Gainu Koda son of Fagu Koda Resident of Village- Dargah Tola Kachhua, P.S.- Chanan, District- Lakhisarai

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar

For the Opposite Party/s : Mr.Kumar Veerendra Narayan

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

2 25-10-2021 Heard the learned counsel for the petitioners and
learned APP for the State.

At the very outset, learned counsel for the
petitioners has submitted that petitioner nos. 2 and 3 were
arrested during the pendency of this application, which has
become infructuous.

In view of aforesaid submission, the application as
against petitioner nos. 2 and 3 is dismissed as infructuous.

The petitioner no.1 apprehend his arrest for the offences
alleged under Sections 30(a) (c) of the Bihar Prohibition and
Excise Act, 2016.

So far as petitioner no.1 is concerned, learned counsel
has submitted that as per allegation the police party raided the
place of occurrence and recovered raw-materials and apparatus



for manufacturing liquor. Thirty litres manufactured liquor was also recovered. The local Chaukidar apprised the informant that the petitioners and other accused persons were also indulged in manufacturing and selling the country-made liquor. Learned counsel has also submitted that the place from where country-made liquor was recovered was not belonging to the petitioners.

Section 76(2) of the Bihar Prohibition and Excise Act, 2016 makes an explicit embargo on entertaining the application under Section 438 of the Cr.P.C.

Since the provision of Section 438 of the Cr.P.C. is not applicable in respect of offences under the Bihar Prohibition and Excise Act, 2016, as such, this anticipatory bail application is dismissed as not maintainable.

If the petitioner no.1 surrenders and seeks regular bail before the court below, the court below shall consider the same on its own merit.

(Nawneet Kumar Pandey, J)

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