

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.2315 of 2022**

Arising Out of PS. Case No.-232 Year-2021 Thana- OBRA District- Aurangabad

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BABITA DEVI WIFE OF MAHESH MEHTA, R/O - WARD NO. 4, OBRA,  
P.S.- OBRA, DISTRICT- AURANGABAD. ... .. Petitioner/s

Versus

THE STATE OF BIHAR ... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.Bhaskar Shankar  
For the Opposite Party/s : Mr.Mukesh Kumar Singh

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

ORAL ORDER

2      05-08-2022                      The learned counsel for the petitioner is directed to  
  
remove all the defects pointed out by the office within one  
  
month.

Heard the learned counsel for the petitioner as well as  
  
the learned Additional Public Prosecutor for the State through  
  
video conferencing.

The petitioner apprehends her arrest in connection with  
  
Obra P.S. Case No. 232 of 2021 registered for the offence  
  
punishable under section 30 (a) of the Bihar Prohibition and  
  
Excise Act.

The learned counsel for the petitioner has submitted  
  
that the petitioner is a lady and the motor cycle was purchased  
  
in her name. Her son handed over that motor cycle to his friend  
  
and the illicit liquor was recovered from the possession of his  
  
friend.



So far as the maintainability of the bail petition is concerned, 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 disposed of with observation that if the petitioner surrendered before the court below and makes a prayer for regular bail that shall be disposed of on the same day without being prejudiced by this order. The learned court below shall take notice of the fact that the petitioner is a lady of clean antecedent and nothing was recovered from her possession and she is owner of the motor cycle.

Office shall ensure that all defects are removed by the petitioner within the stipulated time mentioned hereinabove, failing which, the matter shall be brought to the notice of this Court.

**(Nawneet Kumar Pandey, J)**

Mahesh/-

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