

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14147 of 2021

Arising Out of PS. Case No.-296 Year-2020 Thana- KHIJARSARAI District- Gaya

1. SANJIT MANJHI @ CHOTAN MANJHI Son of Jattu Manjhi Resident of village - Bhuitoli, Police Station - Khizarsarai, District - Gaya.
2. Jitendra Manjhi Son of Jattu Manjhi Resident of village - Bhuitoli, Police Station - Khizarsarai, District - Gaya.
3. Anuj Manjhi Son of Saryu Manjhi Resident of village - Bhuitoli, Police Station - Khizarsarai, District - Gaya.
4. Kumar Manjhi @ Raj Kumar Manjhi Son of Saryu Manjhi Resident of village - Bhuitoli, Police Station - Khizarsarai, District - Gaya.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rabindra Kumar Priyadarshi
For the Opposite Party/s : Mr. Md. Matloob Rab

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL ORDER

3 19-01-2022 Heard the learned counsel for the petitioners as well as the learned Additional Public Prosecutor for the State through video conferencing.

The learned counsel for the petitioners is directed to remove all the defects pointed out by the office within one month.

At the very outset, the learned counsel for the petitioners has submitted that during the pendency of this criminal miscellaneous petition, petitioner no. 4 has been arrested, as such, this criminal miscellaneous petition has become infructuous with respect to him.



In view of above submission, this criminal miscellaneous petition is dismissed as infructuous with respect to petitioner no. 4.

So far as petitioner nos. 1 to 3 are concerned, they apprehend their arrest in connection with Khizarsarai P.S. Case No. 296 of 2020 registered for the offence punishable under section 30 (a) of the Bihar Prohibition and Excise Act.

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 dismissed, as not maintainable.

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

(Nawneet Kumar Pandey , J)

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