

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4538 of 2022

Arising Out of PS. Case No.-220 Year-2021 Thana- BIDUPUR District- Vaishali

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ASHISH PRAKASH UJJVAL @ ASHISH KUMAR @ ASHISH PARKASH
UJAWAL Son of Vedprakash Singh @ Ved Parkash Singh Resident of Village
- Chechar, P.s.- Bidupur, Distt.- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar

For the Opposite Party/s : Mr. Arun Kumar Singh

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

ORAL ORDER

2 11-08-2022 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
learned Additional Public Prosecutor.

The petitioner apprehends his arrest in connection
with Bidupur P.S. Case No. 220 of 2021 registered for the offence
under Sections 30(a) and 41(i) of Bihar Prohibition and Excise
Amendment Act 2018.

The learned counsel for the petitioner has submitted
that nothing was recovered from the possession of the petitioner,
rather illicit liquor was recovered from the possession of
Chandrama Singh and only on the basis of his confessional
statement, the name of the present petitioner has been figured. The
petitioner is a person of clean antecedent.



Be that as it may, 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 maintainable.

If the petitioner surrenders 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 may take notice of the fact that nothing was recovered from the possession of the petitioner and he is a person of clean antecedent.

With these observations, this criminal miscellaneous petition is being disposed of.

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)

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