

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 3964 of 2022

Arising Out of PS. Case No.-244 Year-2021 Thana- RAFIGANJ District- Aurangabad

SHIVDENI YADAV Son of Keshar Yadav, Resident of Village - Umga Tole
Gulab Bigha, P.s.- Madanpur, Distt.- Aurangabad.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ranjit Kumar

For the Opposite Party/s : Ms.Veena Kumari Jaiswal

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

ORAL ORDER

2 11-08-2022 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 petitioners as well as the
learned Additional Public Prosecutor for the State.

The petitioner apprehends his arrest in connection with
Rafiganj P.S. Case No. 244 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 owner of the truck wherefrom the alleged liquor was
recovered. He has submitted further that the petitioner handed over
the truck to the driver and he was not aware with the consignment
loaded on the truck. He has also submitted that 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 not 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 the petitioner is a person of clean antecedent and he is merely the owner of the truck wherefrom the alleged liquor was recovered.

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

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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