

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3676 of 2022

Arising Out of PS. Case No.-220 Year-2021 Thana- DANAPUR District- Patna

RABINDRA RAY SON OF HIRDYA NARAYAN R/O - JHAKHARI
MAHADEO, GOLA ROAD, DR. CHOUBEY ROAD, P.S.- DANAPUR,
DISTRICT- PATNA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ghanshyam Tiwary

For the Opposite Party/s : Mr. J.N.Thakur

**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 Mr.
J. N. Thakur, the learned Additional Public Prosecutor for the State.

The petitioner apprehends his arrest in connection with
Danapur P.S. Case No. 220 of 2021 registered for the offence
punishable under section 30 (a) of the Bihar Madheya Nishedh and
Excise Act, 2018.

The learned counsel for the petitioner has submitted that
one Chhotu Kumar had taken the petitioner's motor cycle and he was
carrying three litres of illicit liquor and the name of the petitioner has
been figured in this case merely because he is the owner of that
motor cycle. He has submitted further 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 nothing was recovered from the possession of the present petitioner, he is merely owner of that motor cycle and he is a person of clean antecedent.

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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