

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14844 of 2021**

Arising Out of PS. Case No.-292 Year-2020 Thana- DARAUNDA District- Siwan

1. RAJ KUMAR CHAUDHARY S/O LATE ARJUN CHAUDHARY. R/O VILLAGE-DIBBI, P.S-DARAUNDA, DISTRICT-SIWAN.
2. PRAMOD CHAUDHARY S/O LATE ARJUN CHAUDHARY. R/O VILLAGE-DIBBI, P.S-DARAUNDA, DISTRICT-SIWAN.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bijay Prakash Singh

For the Opposite Party/s : Mr. Sanjay Kumar

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

ORAL ORDER

3 21-01-2022 Heard the learned counsel for the petitioners as well as 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.

The petitioners apprehend their arrest in connection with Daraunda P.S. Case No. 292 of 2020 registered for the offence punishable under sections 272 and 273 of the Indian Penal Code and section 30 (a) of the Bihar Prohibition and Excise Act, 2016.

The learned counsel for the petitioners has submitted that the involvement of the petitioners has not been found in the alleged recovery and the illegal wine was recovered from the house of co-accused Prabhat Kumar Ram.



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 not maintainable and accordingly it is disposed of, but if the petitioners surrender before the court below and file regular bail, the learned court below shall consider it on merit on the same day and shall also take notice of the fact that the liquor was seized from the house of co-accused Prabhat Kumar Ram, and not from the petitioners, as well as other facts on merit.

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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