

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15855 of 2021

Arising Out of PS. Case No.-99 Year-2020 Thana- KANHauli District- Sitamarhi

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1. GOWARDHAN MANDAL Son of Ramaekbal Mandal Resident of Village- Etaharava, Police Station- Kanhauli, District- Sitamarhi.
 2. Bhikhari Mahto Son of Rajendra Mahto Resident of Village- Etaharava, Police Station- Kanhauli, District- Sitamarhi.
 3. Ravindra Mahto S/o Late Rambriksh Mahto Resident of Village- Etaharava, Police Station- Kanhauli, District- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pushpendra Kumar Singh
For the Opposite Party/s : Mr.Binod Kumar

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

ORAL ORDER

3 07-02-2022 Learned counsel for the petitioners is directed to remove all the defects pointed out by the Stamp Reporter within one month.

At the outset, learned counsel for the petitioners has submitted that during the pendency of this anticipatory bail application, petitioner nos. 2 and 3 have been arrested and, as such, the same has become infructuous. He, therefore, seeks permission to withdraw this application as against petitioner nos. 2 and 3.

In view of the aforesaid submission, the application is dismissed as withdrawn as having become infructuous as



against petitioner nos. 2 and 3.

The petitioner nos. 1 apprehends his arrest for the offences alleged under Section 30(a) of the Bihar Prohibition and Excise Act, 2016, registered in connection with Kanhauli P.S.Case No.99 of 2020.

The learned counsel for the petitioner no.1 has submitted that the alleged wine was recovered from the bank of the river near the house of Bhola Sahni and not from the conscious possession of petitioner no.1.

As Section 76(2) of the Bihar Prohibition and Excise Act, 2016 makes an explicit embargo on entertaining the anticipatory bail petition, as such, the present anticipatory bail so far as petitioner no.1 is concerned, is not maintainable.

If the petitioner no.1 surrenders and and seeks regular bail before the court below, his bail petition shall be considered and disposed of on its own merit, without being prejudiced by this order, taking note of the fact that the illicit liquor was not recovered from the conscious possession of petitioner no.1 and he has no criminal antecedents, as per paragraph no.3 of the bail petition.

With this direction/observation, this application is disposed of.



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

(Nawneet Kumar Pandey, J)

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