

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16934 of 2021

Arising Out of PS. Case No.-144 Year-2019 Thana- BELA District- Sitamarhi

1. RAKESH MAHTO Son of Bachcha Mahto Resident of Village - Dhanha Tiwari Tola, P.S.- Bela, District - Sitamarhi.
2. Nagendra Mahto Son of Prakash Mahto Resident of Village - Dhanha Tiwari Tola, P.S.- Bela, District - Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Birendra Kumar

For the Opposite Party/s : Mr. Ram Naresh Ray

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

ORAL ORDER

2 19-01-2022 Learned counsel for the petitioners is directed to remove all the defects pointed out by the Stamp Reporter within one month.

The learned counsel for the petitioners has submitted that the petitioner no.2 has been arrested during the pendency of the anticipatory bail application and, as such, the same has become infructuous as against petitioner no.2. He, therefore, seeks permission to withdraw the application.

Permission is accorded. The application is accordingly dismissed as withdrawn as having become infructuous as against petitioner no.2.

The petitioner no.1 apprehends his arrest for the offences alleged under Sections 272/273 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act, 2016, registered in connection with Bela P.S.Case No. 144 of



2019.

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 dismissed as not maintainable.

If the petitioner no.1 surrenders and seeks regular bail before the court below, the court below shall consider the same on its own merit.

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)

HR/-

U		T	
---	--	---	--

