

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16887 of 2021

Arising Out of PS. Case No.-823 Year-2019 Thana- RAMKRISHNANAGAR District- Patna

MEENA DEVI W/o- Bijendra Mistri, Resident of Village - Shahpur, P.S. -
Manoharpur Kachuara, and District - Patna.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar Pandey

For the Opposite Party/s : Mr. Pranav Kumar

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

ORAL ORDER

2 19-01-2022 Heard the learned counsel for the petitioner as well as

Additional Public Prosecutor for the State through video

conferencing.

The learned counsel for the petitioner is directed to
remove all the defects pointed out by the office within one
month.

The petitioner apprehends her arrest in connection with
Ramkrishna Nager P.S. Case No. 823 of 2019 registered for the
offence punishable under section 30 (a) of the Bihar Prohibition
and Excise Act, 2016.

The learned counsel for the petitioner has submitted
that the petitioner is a lady and the motor cycle wherefrom
country-made liquor was recovered, was driven by Pankaj
Kumar, son of the petitioner. The petitioner is only bona fide



owner of that motor cycle and she has no concern with the alleged liquor, which has been recovered from that motor cycle.

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 at the same time, it is observed that if the petitioner surrenders before the court below and files regular bail, the same shall be disposed of on the day of filing itself considering the fact that the present petitioner is only bona fide owner of that motor cycle.

Office shall ensure that all defects are removed by the petitioner 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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