

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7609 of 2022

Arising Out of PS. Case No.-547 Year-2021 Thana- SUGAULI District- East Champaran

1. LOTAN SAHANI SON OF JAWAHIR SAHANI @ JAVAHAR SAHNI
RESIDENT OF VILLAGE- GODIGAWA, P.S.- SUGAULI, DISTRICT-
EAST CHAMPARAN
2. DHARMENDRA SAHANI SON OF AWADH SAHANI RESIDENT OF
VILLAGE- GODIGAWA, P.S.- SUGAULI, DISTRICT- EAST
CHAMPARAN

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Abhishek Kumar
For the Opposite Party/s : Mr.Meena Singh

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

ORAL ORDER

2 29-08-2022 The learned counsel for the petitioners is directed to

remove all the defects pointed out by the Stamp Reporter within

one month.

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

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accordingly **dismissed as withdrawn as having become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



Petitioner no.1 apprehends his arrest for the offences alleged under Sections 30(a), (b) and (c) of the Bihar Prohibition and Excise Act, registered in connection with Sugauli P.S.Case No. 547 of 2021.

Learned counsel for the petitioners has submitted that the FIR itself shows that nothing was recovered from the house of the petitioners and as per allegation made in the FIR 150 litres of *mahua mitha* was found in the field of Lotan Sahani, petitioner no.1 which was destroyed. He has submitted further that the seizure list has not been prepared in this case.

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. hence it is not maintainable.

If petitioner no.1 surrenders and seeks regular bail before the court below, that shall be disposed of on its own merit on the same day, without being prejudiced by this order. The learned court below may take notice of the fact that petitioner no.1 is a person of clean antecedent and nothing was recovered from his house and the seizure list has not been prepared.

With these observations, the application stands 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)

HR/-

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

