

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9134 of 2022

Arising Out of PS. Case No.-457 Year-2021 Thana- GARDANIBAG District- Patna

SHAMBHU SAW@SHAMBHU GUPTA S/O SATRUDHAN PRASAD @
LATE OM NATH SAW RESIDENT OF MOHALLA- SADHNAPURI, NEW
SAI MANDIR, P.S.- GARDANIBAG, DISTRIC- PATNA

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Amrendra Narayan Rai

For the Opposite Party/s : Mr.Mritunjay Kumar Nirala

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

ORAL ORDER

2 08-09-2022 Learned counsel for the petitioner is directed to remove
all the defects pointed out by the Stamp Reporter within one month.

Heard learned counsel for the petitioner as well as the
learned APP for the State.

The petitioner apprehend his arrest in connection with
Gardanibagh P.S. Case No. 457 of 2021, registered for the offences
punishable under Section 30(a)/36 of the Bihar Prohibition and
Excise Amendment Act, 2018.

Learned counsel for the petitioner has submitted that the
petitioner was not arrested at the spot. Nothing was recovered from
his possession. He is a person of clean antecedent and the alleged
liquor was recovered from the house of co-accused Gopalji.

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., as such, this anticipatory bail application is not maintainable.

If the petitioner surrenders before the court below and makes a prayer for regular bail, that shall be disposed of on the same day of its filing, on its own merit without being prejudiced by this order. The learned court below may take notice of the fact that the petitioner is a person of clean antecedent and nothing has been recovered from his possession.

With these observations, the criminal miscellaneous petition is disposed of.

Office shall ensure that all defects are removed by the petitioner within the stipulated time provided in para-1 hereinabove, failing which the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey, J)

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