

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.10680 of 2022**

Arising Out of PS. Case No.-36 Year-2018 Thana- SIMRI District- Darbhanga

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DURGESH JHA @ DURGESH KUMAR SON OF GAURI SHANKAR JHA  
R/O VILLAGE- KAHUA, P.S.- BIRAUL, DISTRICT- DARBHANGA AT  
PRESENT RESIDES AT - ISMAILGANJ, NORTH OF BIRZAKHAN  
TANK, P.O.- LAHERIASARAI, WARD NO.-36, EKMI, DARBHANGA

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.Lalit Narayan Jha  
For the Opposite Party/s : Mr.Braj Kishore Pd.(App)

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

ORAL ORDER

2      13-09-2022                      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  
Simri P.S. Case No. 36 of 2018, registered for the offences  
punishable under Section 30(a) of the Bihar Prohibition and  
Amendment Excise Act, 2016.

Learned counsel for the petitioner has submitted that  
nothing was recovered from the possession of the petitioner. He is a  
person of clean antecedent and his name has figured in the  
confessional statement of co-accused Anil Paswan. Petitioner is  
neither driver nor owner of the said Scorpio wherefrom the alleged



liquor was recovered.

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 was 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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