

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9938 of 2022

Arising Out of PS. Case No.-143 Year-2021 Thana- GOVERNMENT OFFICIAL COMP.
District- Vaishali

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MAHENDRA RAI @ MAHENDRA RAY Son of Yugeshwar Rai @
Yugeshwar Ray Resident of Village - Terasia, P.S. Ganga Bridge, District -
Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Mukesh Kumar

For the Opposite Party/s : Mr.Kalyan Shankar

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

ORAL ORDER

2 12-09-2022 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 apprehends his arrest in connection with
C2A No. 143 of 2021, registered for the offences punishable under
Section 30(a), 32 (2), 41 (1) of the Bihar Prohibition and Amendment
Excise Act, 2016.

Learned counsel for the petitioner has submitted that
petitioner is neither driver not owner of the motorcycle wherefrom 20
litres of liquor were recovered. He has submitted further that the
petitioner is a person of clean antecedent.

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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