

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11600 of 2022

Arising Out of PS. Case No.-661 Year-2021 Thana- MOTIHARI MUFASIL District- East
Champaran

-
1. KAMLESH SAHANI @ KAMLESHWAR SAHANI Son of Dhanai Sahani Resident of Village - Tikuliya Dhab Tola, P.s.- Muffasil, Distt.- East Champaran at Motihari.
 2. Sita Devi W/o Kamlesh Sahani @ Kamleshwar Sahani Resident of Village - Tikuliya Dhab Tola, P.s.- Muffasil, Distt.- East Champaran at Motihari.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Rajesh Kumar
For the Opposite Party/s : Mr.Asha Kumari

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

ORAL ORDER

2 14-09-2022 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 learned APP for the State.

Learned counsel for the petitioner has submitted that during the pendency of this petition, the petitioner No. 2 has been arrested and, as such, the same has become infructuous. He, therefore, seeks permission to withdraw this anticipatory bail petition in respect of petitioner No. 2.



In view of the aforesaid submission, the anticipatory bail petition of petitioner No. 2 is dismissed as withdrawn as having become infructuous.

The petitioner No. 1 apprehends his arrest in connection with Muffasil P.S. Case No. 661 of 2021, registered for the offences punishable under Sections 30 (a)(b), 32, 41(1) of the Bihar prohibition and Excise Act.

As per allegation, 35 litres of countrymade liquor was found in a gallon on a motorcycle which was parked in the joint house of the present petitioner. As submitted 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, 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.

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)

SONALI/-

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

